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COMMISSION ON HUMAN RIGHTS

Fifty-third session

SUMMARY RECORD OF THE 64th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 15 April 1997, at 3 p.m.

Chairman: Mr. SOMOL (Czech Republic)

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(a) TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT;

(b) STATUS OF THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT;

(c) QUESTION OF ENFORCED OR INVOLUNTARY DISAPPEARANCES;

(d) QUESTION OF A DRAFT OPTIONAL PROTOCOL TO THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT (continued)

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(a) QUESTION OF HUMAN RIGHTS IN CYPRUS (continued)

The meeting was called to order at 3.35 p.m.

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT, IN PARTICULAR:

(a) TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT;

(b) STATUS OF THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT;

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(d) QUESTION OF A DRAFT OPTIONAL PROTOCOL TO THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

(agenda item 8) (continued) (E/CN.4/1997/L.79, L.99 and L.108)

Draft resolution on the question of arbitrary detention (E/CN.4/1997/L.79)

1. Mr. GOONETILLEKE (Sri Lanka), supported by Mr. ALI (Malaysia), said he agreed with the general principle of the amendment proposed by the representative of Cuba (E/CN.4/1997/L.99), but believed it was already incorporated into the fifth preambular paragraph and paragraph 15 of the draft resolution. He therefore urged the delegation of Cuba to withdraw its amendment so that the draft resolution could be adopted without a vote.

2. Mr. DEMBRI (Algeria) said that the original proposal had been the result of the openness and desire for agreement shown during consultations by the delegation of France. The Cuban amendment made no significant addition to the draft resolution, and tended to confuse international norms and international standards. He urged the delegations of Cuba and France to withdraw their amendments, which he would vote against if necessary.

3. Ms. JANJUA (Pakistan) said she agreed that the concerns expressed by the delegation of Cuba were adequately addressed in paragraph 15 of the draft resolution and requested it to withdraw its amendment.

4. Mr. ALFONSO MARTINEZ (Cuba) said that his delegation had wished to see the ideas expressed in consultations made explicit in the text of the draft resolution but, in deference to the wishes of those delegations that had expressed their support for the principle involved, it withdrew the amendment.

5. Mr. BERNARD (France) said that his delegation's subamendment (E/CN.4/1997/L.108) was thus also withdrawn. He drew attention to two editorial details of the draft resolution: in the fourth line of paragraph 15 of the Spanish text, "jurisdicciones" should be replaced by "instancias", and in the French text, "détention arbitraire" should be replaced by "privation arbitraire de liberté" in subparagraph (d) of paragraph 2, and not of paragraph 4, as he had erroneously stated earlier in the discussions.

6. Mr. DIAZ URIBE (Colombia) said that "dictámenes" should be replaced by "opiniones" in paragraphs 7 and 8 of the Spanish text.

7. Draft resolution E/CN.4/1997/L.79 was adopted without a vote.

8. Ms. GHOSE (India) said that the process whereby proposals were submitted to the Commission by the Sub-Commission in the form of draft decisions needed to be rationalized. For example, with respect to draft decision 7, the Sub-Commission's Special Rapporteur on the question of human rights and states of emergency submitted annual updates, whereas a triennial report or reports on current states of emergency only might well be adequate. She believed the issue should be addressed by the Commission at its next session.

9. Mrs. RUBIN (United States of America) said that, while her delegation had been pleased to join the consensus on the draft resolution, it wished to explain its position on certain points with which it differed. It accepted that there was a difference between imprisonment, which required a legal conviction, and detention, but the distinction became blurred or disappeared when courts convicted defendants in an arbitrary manner.

10. The Commission should resist unduly restricting the working methods of the Working Group on Arbitrary Detention, especially with regard to its investigations in countries without an independent judiciary. She also stressed that all States were bound by the obligations in international human rights conventions to which they were a party, as well as by the human rights standards of customary international law.

FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION:

(a) ALTERNATIVE APPROACHES AND WAYS AND MEANS WITHIN THE UNITED NATIONS SYSTEM FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS;

(b) NATIONAL INSTITUTIONS FOR THE PROMOTION AND PROTECTION OF HUMAN RIGHTS;

(c) COORDINATING ROLE OF THE CENTRE FOR HUMAN RIGHTS WITHIN THE UNITED NATIONS BODIES AND MACHINERY DEALING WITH THE PROMOTION AND PROTECTION OF HUMAN RIGHTS;

(d) HUMAN RIGHTS, MASS EXODUSES AND DISPLACED PERSONS

(agenda item 9) (continued) (E/CN.4/1997/L.36, L.86 and L.87)

Draft resolution on enhancement of international cooperation in the field of human rights (E/CN.4/1997/L.36)

11. The CHAIRMAN said that the draft resolution had been withdrawn.

12. Mr. GUERRERO (Colombia) said that the Movement of Non-Aligned Countries was firmly committed to genuine cooperation between Member States in the field of human rights on the basis of constructive dialogue and respect for the

sovereign equality of States. "Cooperation, not confrontation" was not just a slogan but a new approach to international relations. He was hopeful that effective ways and means would be found to enhance international cooperation, as called for in General Assembly resolution 51/100. He stressed that the Movement's initiative was not linked to any other proposal on the subject and that the Movement would be pursuing it at both the fifty-second session of the General Assembly and the fifty-fourth session of the Commission.

Draft resolutions on the rationalization of the work of the special procedures system and review of the special procedures system (E/CN.4/1997/L.86 and L.87).

13. Ms. JANJUA (Pakistan) said that it was essential to make the special procedures system more credible and more effective, but, despite the many valuable suggestions that had been made during the discussions and incorporated into the texts of the draft resolutions, further consultation was necessary for full consensus to be reached. She therefore withdrew the two draft resolutions and proposed, instead, the following draft decision:

> "Decides to defer consideration of the two draft resolutions entitled 'rationalization of the work of the special procedures system' (E/CN.4/1997/L.86) and 'Review of the special procedures system' (E/CN.4/1997/L.87) to the fifty-fourth session of the Commission on Human Rights."

14. The draft decision proposed by the representative of Pakistan was adopted.

ADVISORY SERVICES IN THE FIELD OF HUMAN RIGHTS (agenda item 18) (continued) (E/CN.4/1997/L.61 and L.78)

Draft resolution on assistance to Guatemala in the field of human rights (E/CN.4/1997/L.61) (continued)

15. Mrs. KLEIN (Secretary of the Commission) said that the representatives of the Dominican Republic, Italy, Nicaragua and Uruguay and the observers for Costa Rica and Honduras had become sponsors of the draft resolution.

16. Mr. GIROUX (Canada), speaking in explanation of position, said that the peace agreements signed by the Government of Guatemala and the Unidad Revolucionaria Nacional Guatemalteca (URNG), as well as other significant developments over the past year had the potential to improve the human rights situation in Guatemala significantly. His Government would continue to support efforts to build peace with democracy and full respect for human rights. It deeply regretted the recent resignation of the independent expert, Mrs. Mónica Pinto, who deserved the warmest thanks of the Commission and the people of Guatemala. It was vital that the report called for in the resolution should provide a balanced, comprehensive basis for the Commission's deliberations at its forthcoming session.

17. Mr. COMBA (Centre for Human Rights) said that the costs associated with the mission requested for 1997 would be absorbed in the 1996-1997 budget allocated to the mandate of independent experts, and the draft resolution, if adopted, would have no further financial implications.

18. Draft resolution E/CN.4/1997/L.61, as orally amended, was adopted.

Draft resolution on the situation of human rights in Haiti (E/CN.4/1997/L.78) (continued)

19. Mr. SUAREZ FIGUEROA (Observer Venezuela), replying to the question asked at an earlier meeting by the representative of Ireland concerning paragraph 18 of the draft resolution, said that a visit by the Special Rapporteur on violence against women to Haiti was not a new idea, since it had been incorporated in the resolution adopted the previous year by the Commission on the situation of human rights in Haiti (1996/58). The motivation for suggesting such a visit had been concern over the violence to which Haitian women were being subjected. The report of the independent expert indicated that the United Nations Population Fund had offered to provide financial support in connection with such a visit (E/CN.4/1996/94, para. 57).

20. Following negotiations with the Irish delegation, the sponsors had concluded that the objective of a visit by the Special Rapporteur to Haiti could be attained through the resources of the regular budget. Consequently, they had decided to delete the phrase "with the support of the United Nations Population Fund" from paragraph 18. Moreover, in paragraph 7, the words "the inclusion of" would be replaced by "the continued inclusion of", and the words "the establishment of" by "takes note of the work of".

21. Ms. ANDERSON (Ireland) thanked the observer for Venezuela for the supplementary information that had fully clarified the issue.

22. The draft resolution, as orally revised, was adopted.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES, INCLUDING:

(a) QUESTION OF HUMAN RIGHTS IN CYPRUS (agenda item 10) (continued) (E/CN.4/1997/L.40, L.46, L.83, L.85 and L.109)

Draft resolution on the situation of human rights in Nigeria (E/CN.4/1997/L.40 and L.109)

23. Mr. van WULFFTEN PALTHE (Netherlands), introducing the draft resolution on behalf of its sponsors, who had been joined by the representatives of Argentina, Japan and the United States of America, said that the report on the situation of human rights in Nigeria submitted jointly by the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the independence of judges and lawyers (E/CN.4/1997/62 and Add.1) made it clear that the situation there was even worse than had been feared. The promised changes in the legal system had not been followed up by acts and human rights were being violated on a massive scale.

24. Of particular concern were the rumours concerning Chief Abiola, of ill-health, deprivation of medical treatment and even death. Despite numerous requests for information, however, the Nigerian authorities remained silent as to his whereabouts and his well-being. Some of the alleged political activists accused of treason were being tried in absentia. For those reasons, paragraph 4, subparagraph (a) of the draft resolution provided that a special rapporteur should be appointed for Nigeria.

25. During negotiations concerning a similar draft resolution at the Commission's previous session it had been agreed that, if the two Special Rapporteurs he had mentioned were not allowed to visit Nigeria, the Commission, would appoint a special rapporteur for Nigeria. The Nigerian authorities had repeatedly broken their word, and it was time to make it clear that contempt for the Commission's decisions could not be without consequences. The sponsors called for wide support for the draft resolution, which should be adopted without a vote.

26. Mrs. KLEIN (Secretary of the Commission) said that the observers for Belgium, Estonia, Liechtenstein and Romania had become sponsors of the draft resolution.

27. Mr. ZAHRAN (Egypt), introducing on behalf of its sponsors a proposed amendment (E/CN.4/1997/L.109) designed to replace paragraph 4, subparagraph (a) of the draft resolution (E/CN.4/1997/L.40), said that the sponsors were motivated by the conviction that the situation of human rights in any country must be analysed through consultation, respect for sovereignty and non-interference in the internal affairs of the State.

28. The sponsors, who comprised representatives of the great majority of African States, were convinced that accusations levelled against the Nigerian Government would not be conducive to achieving respect for human rights in that country. The Government of Nigeria had not prevented the Special Rapporteurs from visiting the country. Though it was true that agreement for the visit had been given only in 1997, the Special Rapporteurs should have been able to make their visit and to report to the Commission on the situation in the country. The draft resolution, as amended, would acknowledge that the mandates of the two Special Rapporteurs had not been carried out and would urge the Nigerian Government to facilitate their visits in the future.

29. In its statement to the Commission under agenda item 10, the Government of Nigeria had expressed regret at the cancellation of the visit by the Special Rapporteurs and had affirmed that the invitation to make such a visit was still open. The sponsors, who had obtained guarantees from the Government of Nigeria that it would cooperate fully with the Commission in moving forward in the transition to civilian government, thus called on the members of the Commission to support the amendment and, if a vote was to be taken, requested a roll-call vote.

30. Mrs. KLEIN (Secretary of the Commission) said that the representatives of Ethiopia and Mali and the observers for Congo and Tunisia had become sponsors of the draft amendment.

31. Mr. USMAN (Observer for Nigeria), commenting on the proposed amendment, said false information had been circulating of late to the effect that Chief Abiola had died and that a request by the representative of the Netherlands in Nigeria to meet Chief Abiola to verify that rumour had been refused. No such request had ever been made to the Government of Nigeria, and Chief Abiola was hale and hearty. If the Commission requested confirmation of that fact, his Government would ensure that a representative of any of the sponsors of the proposed amendment who was resident in Nigeria would be enabled to meet Chief Abiola.

32. His delegation thanked those Governments that had shown a good understanding of its situation and assured them of its Government's commitment to the faithful implementation of the Programme of Transition to Civil Rule.

33. Mr. van WULFFTEN PALTHE (Netherlands) said that, he had in his possession copies of four notes verbales sent by his Government's Embassy in Nigeria requesting meetings with Chief Abiola. The only response from the Nigerian Ministry of Foreign Affairs had been to withdraw the agreement for the presence of the Ambassador of the Netherlands in Nigeria. He requested a roll-call vote on the proposed amendment and hoped all delegations would vote against it.

34. Mr. COMBA (Centre for Human Rights), outlining the financial implications of the draft resolution, said that the requirements related to the appointment of a new special rapporteur had been estimated at US$ 55,000. Though no provision had been made for that purpose in the 1996-1997 programme budget, it was anticipated that the requirements could be absorbed within the existing resources under section 21.

35. If the proposed amendment was adopted, a joint visit to Nigeria would be undertaken by the two Special Rapporteurs. The costs relating to that visit were expected to be absorbed within the provisions made in the 1996-1997 programme budget for the Special Rapporteurs in question.

36. Mr. MUSA HITAM (Malaysia) said that, at a meeting in Nigeria with the authorities in the context of the Commonwealth Ministers' Action Group (CMAG), he had requested that the Commission's Special Rapporteurs be accorded the fullest cooperation and given the fullest facilities. It was most unfortunate, therefore, that the visit had not taken place. He also regretted that his Government's request that its representatives be allowed, while in Nigeria, to meet certain prominent detainees had not been entertained.

37. His delegation would be abstaining if votes were taken on either the proposed amendment or the draft resolution. It hoped that the Nigerian Government would be more forthcoming regarding the urgings of the international community.

38. Mr. SELEBI (South Africa) said that his country, too, had participated in the Commonwealth Ministerial Action Group in a process aiming at dialogue, which had come to nothing. The point at issue was not, indeed, "dialogue" but the defence of people's rights: Africans too must be free. His delegation

would not therefore support the proposed amendment, which sought to avoid the issue of the promotion and protection of people's rights, but would vote in favour of the draft resolution.

39. More than a mere "visit" was required; stronger action must be taken. There seemed to be a progressive tendency to blame the messenger rather than the violators of human rights themselves. It was those in power in Nigeria who had created the current situation, not the thematic Special Rapporteurs.

40. Ms. RUBIN (United States of America) said her delegation was opposed to the amendment, which would prevent the appointment of a special rapporteur. The Government of Nigeria had refused to cooperate with the thematic Special Rapporteurs, whom it had agreed to invite in 1996, and it should not be rewarded for failing to honour its commitments to the Commission. The human rights situation in Nigeria was serious enough to warrant the attention of a special rapporteur.

41. Mr. ZAHRAN (Egypt) said that he had not sought to accuse or criticize the Special Rapporteurs or the sponsors of the draft resolution. The aim of the proposed amendment was to encourage the Special Rapporteurs to visit Nigeria, in the belief that the enjoyment of human rights and fundamental freedoms could best be achieved through cooperation between the Nigerian Government and the Commission.

42. Mr. DEMBRI (Algeria) pointed out that the proposed amendment had 28 sponsors, all from Africa. Clearly the African Group had a different approach to the state of affairs in Nigeria, on which the way forward was consensus not confrontation. Moreover, he was not inclined to trust unauthenticated documents of unknown provenance. The Commission was made up of responsible Governments which should be guided by facts, not allegations.

43. It was unacceptable for some Governments to talk of basing economic and trading decisions on the human rights situation in other countries, as if they had some absolute claim to superiority. It was for Africa to take responsibility for its own. The draft resolution, if amended as proposed, would give Nigeria the opportunity to improve its human rights situation. He urged the Commission to achieve consensus and not to make a divisive decision that it might later regret.

44. Mr. de ICAZA (Mexico) said he was astonished at the unprecedentedly contradictory statements that had been made. The confrontation of one group of States with another group of States meant that the cause of human rights in Nigeria had been lost sight of. His delegation was not willing to participate in the argument and would therefore abstain on both the draft resolution and the proposed amendment.

45. At the request of the representative of the Netherlands, a vote was taken by roll-call on the amendment proposed to the draft resolution on the situation of human rights in Nigeria.

46. The Dominican Republic, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Algeria, Angola, Benin, Cape Verde, China, Cuba, Egypt, Ethiopia, Gabon, Guinea, India, Indonesia, Madagascar, Mali, Mozambique, Pakistan, Sri Lanka, Uganda, Zaire, Zimbabwe.

Against: Argentina, Austria, Belarus, Brazil, Bulgaria, Canada, Chile, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, France, Germany, Ireland, Italy, Japan, Netherlands, Nicaragua, South Africa, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay.

Abstaining: Bangladesh, Bhutan, Colombia, Malaysia, Mexico, Nepal, Philippines, Republic of Korea, Russian Federation.

47. The amendment was rejected by 24 votes to 20, with 9 abstentions.

48. At the request of the representative of Egypt, a vote was taken by roll-call on draft resolution (E/CN.4/1997/L.40).

49. China, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Argentina, Austria, Belarus, Brazil, Bulgaria, Canada, Chile, Colombia, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, France, Germany, Ireland, Italy, Japan, Netherlands, Nicaragua, Republic of Korea, Russian Federation, South Africa, Uganda, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay.

Against: Benin, China, Cuba, Gabon, Indonesia, Zaire.

Abstaining: Algeria, Angola, Bangladesh, Bhutan, Cape Verde, Egypt, Ethiopia, Guinea, India, Madagascar, Malaysia, Mali, Mexico, Mozambique, Nepal, Pakistan, Philippines, Sri Lanka, Zimbabwe.

50. Draft resolution E/CN.4/1997/L.40 was adopted by 28 votes to 6, with 19 abstentions.

Draft resolution on the situation of human rights in the Islamic Republic of Iran (E/CN.4/1997/L.46)

51. Mr. van WULFFTEN PALTHE (Netherlands), introducing the draft resolution on behalf of its sponsors, said that it had been the subject of extensive negotiations among the sponsors and with the Iranian delegation in the hope of making it acceptable to all parties. Consensus had, however, remained elusive.

52. The draft resolution expressed concern at the continuing violations of human rights in the Islamic Republic of Iran, at grave breaches of the human rights of the Baha'is in that country, at violations of the right to peaceful

assembly and restrictions on freedom of expression and the failure of the Government to make any commitment not to harm Mr. Salman Rushdie, the bounty on whose head had indeed been increased. In that connection, in the last line of paragraph 2, subparagraph (d), the word "Mehrdad" should read "Khordad". The recent outcome of the so-called "Mykonos" trial had demonstrated that State terrorism was unacceptable. The draft resolution also called for discrimination against women to cease.

53. Mrs. KLEIN (Secretary of the Commission) said that the representatives of Canada, Czech Republic and Japan and the observers for Estonia, Liechtenstein, Romania and Slovakia had become sponsors of the draft resolution.

54. Mr. ZIARAN (Observer for the Islamic Republic of Iran) said he regretted that the representative of the Netherlands had repeated the allegations contained in the draft resolution. Voting should have been unnecessary, since a consensus could have been reached; his delegation had done its utmost, but the sponsors had shown neither political will nor courage.

55. The draft resolution was almost identical to previous resolutions, despite the fact that the Special Representative had stated that progress was being made in a number of sectors and that that should be reflected in the Commission's decisions. Indeed, the tone of the Special Representative's report was in stark contrast to that of the draft resolution, which was full of illusions. It was more of a draft allegation. The sponsors could not come to terms with reality, since for them human rights concerns were relevant only in so far as their political ends were attained.

56. Despite the fact that the Special Representative had been influenced by misinformation and made some unfair observations, the Iranian delegation had been ready to work towards a consensus resolution. It was ready to continue cooperating with the Special Representative and to accept a consensus resolution based on his report and extending his mandate.

57. In negotiations with the sponsors, however, it had been told that the Special Representative's report was not the main source of information. It took the view that the Special Representative's report should form the basis of the Commission's decisions and that the sponsors should have passed on to him any information they had obtained elsewhere.

58. Such disregard of the Special Representative rendered the exercise a futile one and, if the trend continued, it would be detrimental to human rights, by discouraging countries from cooperating with human rights bodies. His Government would continue to cooperate with the Special Representative, but not on the basis of the draft resolution, if it was adopted. He invited the members of the Commission to vote against it.

59. Mr. COMBA (Centre for Human Rights) said that the amount of $121,600 was available under section 21 of the 1996-1997 programme budget for the costs of extending the Special Rapporteur's mandate for a further year, as provided in paragraph 4, subparagraph (a), of the draft resolution. The requirements for the first quarter of 1998 would be included in the proposed programme budget for the biennium 1998-1999.

60. Mr. AKRAM (Pakistan), speaking in explanation of vote before the voting, said he had hoped that the negotiations between the sponsors and the Islamic Republic of Iran would lead to a consensus, which he would have supported. Since no consensus had been reached, he requested a roll-call vote; his own delegation would vote against the draft resolution.

61. Mr. TARMIDZI (Indonesia), speaking on behalf of the member countries of the Organization of the Islamic Conference (OIC), and Mr. CASTRO GUERRERO (Colombia) said that they also regretted the failure to reach consensus and that they supported the request for a roll-call vote.

62. Mrs. BAUTISTA (Philippines) said that the current situation raised the larger issue of how to deal with the reports of special rapporteurs in such cases.

63. Mr. CHOWDHURY (Bangladesh) said that the adoption of the draft resolution could serve no effective purpose and that his delegation would vote against it.

64. The vote was taken by roll-call.

65. Mozambique, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Algeria, Argentina, Austria, Brazil, Bulgaria, Canada, Chile, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Ethiopia, France, Germany, Ireland, Italy, Japan, Mexico, Netherlands, Nicaragua, Russian Federation, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Zaire.

Against: Bangladesh, China, Cuba, India, Indonesia, Malaysia, Pakistan.

Abstaining: Angola, Belarus, Benin, Bhutan, Cape Verde, Colombia, Egypt, Gabon, Guinea, Madagascar, Mali, Mozambique, Nepal, Philippines, Republic of Korea, South Africa, Sri Lanka, Uganda, Zimbabwe.

66. The draft resolution was adopted by 26 votes to 7, with 19 abstentions.

Draft resolution on the human rights situation in southern Lebanon and West Bekaa (E/CN.4/1997/L.83)

67. Mr. ZAHRAN (Egypt) said that the sponsors of the draft resolution wished to introduce a technical revision. In both the second preambular paragraph and paragraph 2, the word "resolution" should be changed to "resolutions" and the words "and 509 (1982) of 6 June 1982" should be added after "19 March 1978".

68. The draft resolution expressed concern about the repeated Israeli aggressions and human rights violations in southern Lebanon and West Bekaa and about Israel's failure to implement Security Council resolutions 425 (1978) and 509 (1982); called upon Israel to comply with those resolutions and to release all detainees; and provided for the Commission's continued consideration of the agenda item at its fifty-fourth session.

69. The aim of the draft resolution was to promote the achievement of a comprehensive, just and lasting peace in the Middle East. In the current situation, Lebanon needed the support of the international community; he therefore hoped that the Commission would adopt the draft resolution without a vote.

70. Mrs. KLEIN (Secretary of the Commission) said that the representative of Pakistan had become a sponsor of the draft resolution.

71. Mr. LAMDAN (Observer for Israel) said that the fact that several delegations attacked Israel not only under agenda items 4 and 7, but also under item 10, represented a further exploitation of the Commission's agenda for political purposes far removed from the cause of human rights.

72. The draft resolution, presented a one-sided and distorted view of the situation, which was caused by the hostile activities of terrorist organizations that used Lebanon as a base for their relentless aggression against Israel. The Lebanese Government had refused to restrain and disarm those groups. It could not support terrorism and expect peace in return.

73. Israel had no territorial claims or designs on Lebanon. It simply demanded that Lebanon should put its house in order so that the peace negotiations could continue. Lebanon's refusal to do so was at odds with its claim to be committed to the Middle East peace process, which was based solely on Security Council resolutions 242 (1967) and 338 (1973), as stipulated by the sponsors of the Madrid Peace Conference. The Commission's adoption of any one-sided resolution suggesting alternative approaches would lead nowhere.

74. Mr. EL KHAZEN (Observer for Lebanon) said that any people under occupation had the right to offer resistance. The disorder of which the Israeli delegation had spoken was caused by Israel. The Lebanese Government was willing to exercise its sovereignty over all of its territory, if Israel would implement Security Council resolutions 425 (1978) and 509 (1982).

75. The CHAIRMAN said that a delegation had formally requested a vote by show of hands on the draft resolution.

76. Mr. ZAHRAN (Egypt) said that, if the draft resolution could not be adopted by consensus, he requested a roll-call vote.

77. Mr. J.A. FERNÁNDEZ (Cuba) asked which delegation had requested a vote by show of hands.

78. The CHAIRMAN said that the delegation of the United States of America had submitted the request.

79. The vote was taken by roll-call.

80. Ireland, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Algeria, Angola, Argentina, Austria, Bangladesh, Belarus, Benin, Bhutan, Brazil, Bulgaria, Canada, Cape Verde, Chile, China, Colombia, Cuba, Czech Republic, Denmark, Ecuador, Egypt, El Salvador, Ethiopia, France, Gabon, Germany, Guinea, India, Indonesia, Ireland, Italy, Japan, Madagascar, Malaysia, Mali, Mexico, Mozambique, Nepal, Netherlands, Nicaragua, Pakistan, Philippines, Republic of Korea, Russian Federation, South Africa, Sri Lanka, Uganda, Ukraine, United Kingdom of Great Britain and Northern Ireland, Uruguay, Zaire, Zimbabwe.

Against: United States of America.

Abstaining: Dominican Republic.

81. The draft resolution was adopted by 51 votes to 1, with 1 abstention.

Draft resolution on cooperation with representatives of United Nations human rights bodies (E/CN.4/1997/L.85)

82. Mr. LAKATOS (Observer for Hungary) said that the draft resolution was based on previous resolutions adopted by the Commission. He outlined its highlights and expressed the hope that it would be adopted by consensus.

83. Mrs. KLEIN (Secretary of the Commission) said that the representatives of Brazil, the Netherlands and Uruguay had become sponsors of the draft resolution.

84. The draft resolution was adopted.

The meeting rose at 6.05 p.m.

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PRI

COMMISSION ON HUMAN RIGHTS

Fifty-third session

SUMMARY RECORD OF THE 65th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 15 April 1997, at 6 p.m.

Chairman: Mr. SOMOL (Czech Republic)

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GE.97-12721 (E)

The meeting was called to order at 6.20 p.m.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES, INCLUDING:

(a) QUESTION OF HUMAN RIGHTS IN CYPRUS (continued)

Draft resolution on the situation of human rights in Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro) (E/CN.4/1997/L.88)

1. Mr. SMITH (United States), introducing the draft resolution, said there were a number of corrections to be made. In operative paragraph 13 (b), the words "European Commission Monitoring Mission" should be replaced by "European Community Monitoring Mission"; in paragraphs 13 (b) and 28 (b), the words "Commission of Enquiry" should be replaced by "Council of Europe"; and in paragraph 22 (g), "1996" should be replaced by "1997".

2. Nearly 17 months after the signing of the Dayton Peace Agreement, an uneasy calm prevailed in Bosnia and Herzegovina, Croatia and the Federal Republic of Yugoslavia, and there were disturbing signs that the parties to the Agreement and extremists on all sides had failed to implement the human rights safeguards which it had called for. He reviewed the main features of the draft resolution, which were contained in operative paragraphs 2, 3, 13 (a), 15, 22 and 32-42.

3. The draft resolution was intended to convey to the concerned parties the point that the international community expected them to make greater efforts to protect human rights and to honour the commitments that they had made. The Governments concerned, and the authorities of the Republika Srpska, must redouble their efforts to protect all their citizens, put and end to violence and human rights violations based on ethnic and religious hatred, and work towards a society where the rule of law prevailed.

4. Mrs. KLEIN (Secretary of the Commission) announced that Albania, France, Liechtenstein, Luxembourg, New Zealand, Portugal, Slovakia and Spain had joined the sponsors of the draft resolution.

5. Mr. SOCANEC (Observer for Croatia) said the draft resolution did not realistically reflect the human rights situation in the countries concerned because it failed to take into account the root causes of the war or to indicate clearly those responsible for, and the victims of, serious breaches of international humanitarian law.

6. He objected to the wording of paragraph 27 (b), which called on the Government of the Republic of Croatia to allow the expeditious return to their homes in all regions, in particular to the Krajina, of all refugees and displaced persons. Such a return could only be gradual and proportionate to confidence-building measures and economic reconstruction; moreover, his Government could not be held responsible for the decision of ethnic Serbs who did not wish to return to Croatia. The term "Krajina" was not recognized by

the Croatian Government; it had been coined by the self-proclaimed Croatian Serb authorities in reference to the territories of the Republic of Croatia which they had occupied.

7. With regard to the possibility of a mass exodus from eastern Slavonia, he noted that the President of the Security Council had stated on 7 March 1997 that the local Serb authorities were partially responsible for the local inhabitants' decision whether or not to remain in the region. The Croatian Government had frequently appealed to residents of that region to remain and had called upon citizens to vote in order to achieve peaceful reintegration.

8. He reminded the Commission that the procedures established in Rome on 18 February 1996 concerning the arrest, detention and trial of persons for violations of international humanitarian law concerned the implementation of the General Framework for Peace in Bosnia and Herzegovina and that Croatia was not bound by it.

9. The draft resolution should have mentioned positive developments in the Republic of Croatia, such as its admission to the Council of Europe and the establishment at the governmental level of a number of institutions for the protection of human rights. Croatia attached great importance to the issue of missing persons and regretted the resignation of the expert for the special process on missing persons in the territory of the former Yugoslavia and the fact that the draft resolution would discontinue that process.

10. Lastly, his Government considered it unnecessary to extend the mandate of the Special Rapporteur beyond the date of Croatia's ratification of the European Convention for the Protection of Human Rights and Fundamental Freedoms and the protocols thereto, which would occur no later than November 1997.

11. Mr. MALGUINOV (Russian Federation) said that while he appreciated the openness which had prevailed during consultations on the draft resolution and the contribution of the original sponsor, the United States, the draft was not objective, balanced or accurate and failed to take into consideration some of the complexities of the post-conflict period. As in the past, the situation in the Federal Republic of Yugoslavia was evaluated in a one-sided manner, particularly with regard to Kosovo and the measures taken by the Government in order to guarantee the rights and freedoms of citizens and widen dialogue with international human rights bodies. The draft resolution also made unsubstantiated allegations of discriminatory legislation and governmental measures.

12. The purpose of Commission resolutions was to raise the level of protection of human rights and to avoid encouraging acts of violence or separatism. The fact that various names, facts and events were mentioned out of context in the draft precluded an objective assessment of the situation. The references to the "Federal Republic of Yugoslavia" were anachronistic and, in future, should be brought into line with the practice agreed upon by the majority of States. Moreover, that country's membership of international organizations should long since have been restored yet the resolution appeared to take the opposite approach.

13. He nevertheless supported the call for all States in the territory of the former Yugoslavia to ensure the protection of human rights, overcome the post-conflict syndrome and seek mutually acceptable solutions to their problems. He welcomed the constructive statement made by the representative of the United States in his introduction of the draft resolution.

14. For the above-mentioned reasons, his delegation requested a roll-call vote on paragraphs 18, 29 (d), (f), (g) and (h), and 31 and asked that those paragraphs should be voted on jointly. His delegation would abstain in that vote but was prepared to join the consensus on the resolution as a whole.

15. Mr. PETRESKI (Observer for the former Yugoslav Republic of Macedonia) stated that the proper name of his country was the Republic of Macedonia. His Government took the view that the international community should develop different approaches to human rights monitoring in order to find solutions to genuine problems and commend positive examples. It welcomed the constructive dialogue which it had had with the Special Rapporteur and was pleased to note that the important progress in the human rights situation in his country had been recognized. It considered that respect for human rights was a legitimate concern of the international community and, in that regard, welcomed cooperation with international organizations within the framework of the regular mechanisms and institutions of which it was a member and which were based on the principle of equality of States and respect for the specific features of individual States. It therefore welcomed the recommendation in the draft resolution that consideration of the Republic of Macedonia in the Special Rapporteur's mandate should be discontinued no later than the end of September 1997.

16. Mr. FADZAN (Observer for Bosnia and Herzegovina) said his delegation considered the text of draft resolution E/CN.4/1997/L.88 acceptable because it covered the important aspects of the problem, including use of the correct name for the former Republic of Yugoslavia (Serbia and Montenegro), and thanked the delegation of the United States for its contribution to the achievement of consensus on the text within the five-nation contact group.

17. However, there was a lack of political will to stand firmly behind the principles expressed in the Dayton Peace Agreement and to provide a real response to the almost catastrophic situation of human rights in the three countries concerned. Because there were political obstacles to acceptance of the cause-and-effect relationship with regard to human rights violations in those countries, the action taken to prevent such violations was in the nature of a lowest possible common denominator.

18. His delegation reiterated its support for the Special Rapporteur's most recent statement made before the Commission, which had contained suggestions for principles and activities that could move the peace process beyond its current stalemate and lead to reconciliation and reconstruction of a multi-ethnic, democratic, liberal and tolerant civil society in Bosnia and Herzegovina.

19. Mr. TARMIDZI (Indonesia), speaking on behalf of the Organization of the Islamic Conference (OIC), said the OIC member States considered that the

draft resolution was insufficiently focused, weak and unlikely to accomplish its objectives. However, they would not stand in the way of consensus on its adoption.

20. Mr. COMBA (Centre for Human Rights), explaining the financial implications of the draft resolution, said that extension of the mandate of the Special Rapporteur for one year (para. 42) would require an allocation of US$ 112,200 under section 21 of the programme budget for the biennium 1996-1997. The budgetary requirements for the first quarter of 1998 would be included in the proposed programme budget for the biennium 1998-1999.

21. Mr. van WULFFTEN PALTHE (Netherlands), speaking in explanation of vote before the voting, said his delegation appreciated the importance of draft resolution L.88 for the advancement of human rights in the countries concerned. However, with regard to the section on missing persons, his delegation regretted that no effort had been made to maintain the special process on missing persons, granting it a clear mandate and the full backing of the world community, and that the expert for the special process had been compelled to resign. The section on missing persons did not reflect the international community's commitment to solving the many remaining cases of missing persons in the region, notably through exhumation and identification of mortal remains, and assigned that task to so many agencies that genuine action appeared impossible. The Netherlands was, therefore, unable to become a sponsor of the draft resolution as in previous years but would not oppose its adoption.

22. Ms. RIVERO (Uruguay), speaking in explanation of vote before the voting, said that while her delegation would join the consensus on the draft resolution, it was concerned at the termination of the mandate of the expert for the special process and believed that much remained to be done in that area. It also feared that the many tasks entrusted to the Special Rapporteur might make it difficult for her to fulfil her mandate effectively.

23. At the request of the representative of the Russian Federation, a vote was taken by roll-call on paragraphs 18, 29 (d), (f), (g) and (h), and 31 jointly.

24. Ireland, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Algeria, Argentina, Austria, Bangladesh, Benin, Bhutan, Brazil, Bulgaria, Canada, Chile, Czech Republic, Denmark, Dominican Republic, Ecuador, Egypt, El Salvador, France, Gabon, Germany, Ireland, Italy, Japan, Malaysia, Netherlands, Nicaragua, Pakistan, Philippines, Republic of Korea, South Africa, Uganda, Ukraine, United Kingdom, United States, Uruguay, Zaire.

Against: None

Abstaining: Angola, Belarus, Cape Verde, China, Colombia, Guinea, India, Indonesia, Madagascar, Mali, Mexico, Mozambique, Nepal, Russian Federation, Sri Lanka, Zimbabwe.

25. Paragraphs 18, 29 (d), (f), (g) and (h), and 31 were adopted by 35 votes to 0, with 16 abstentions.

26. Draft resolution E/CN.4/1997/L.88, as amended, was adopted without a vote.

Draft resolution on human rights in Zaire (E/CN.4/1997/L.89)

27. Mr. van WULFFTEN PALTHE (Netherlands), introducing the draft resolution, said that the political situation in Zaire was changing rapidly and a negotiated solution to the conflict remained out of reach. The draft resolution called upon all parties concerned to show restraint, respect the terms of the democratic transition process, seek a political solution and refrain from further violence. The sponsors were deeply concerned at the human rights situation in Zaire, and particularly the continued impunity enjoyed by the army and the security forces, arbitrary deprivation of nationality, and the continued lack of political, civil, economic, social and cultural rights.

28. They welcomed the opening of the office of the United Nations High Commissioner for Human Rights in Kinshasa and called upon the authorities to cooperate fully with that office, its human rights observers and the Special Rapporteur. A new element in the draft was the Commission's decision to field a joint mission consisting of the Special Rapporteurs on the situation of human rights in Zaire and on extrajudicial, summary or arbitrary executions and a member of the Working Group on Enforced or Involuntary Disappearances, to investigate allegations of massacres and other issues affecting human rights which arose from the conflict in eastern Zaire (para. 6). He thanked the Zairian delegation for its constructive participation in the negotiations on the draft resolution.

29. Mrs. KLEIN (Secretary of the Commission) announced that Argentina, Australia, Estonia, Japan, Norway, Poland, Slovakia and Switzerland had joined the sponsors of the draft resolution.

30. Mr. MULUME (Zaire) said that his country was experiencing a major political upheaval and a serious economic and social crisis; the war against the Zairian people had spread to 7 of the country's 11 provinces.

31. The three reports submitted to the Commission by the Special Rapporteur, which had formed the basis of the draft resolution, did not reflect the progress made in various areas of civil and political rights or in the transition to democracy which had been interrupted by war in the eastern part of the country and which was to have culminated in a general election in May 1997. The establishment of the National Electoral Commission and the office of the United Nations High Commissioner for Human Rights in Kinshasa demonstrated the Zairian Government's willingness to cooperate with the United Nations in the process of democratization and the promotion of human rights. The failure of the United Nations and the Special Rapporteur to issue an official and timely condemnation of the massacres and violations of human rights and international humanitarian law in eastern Zaire made their recent expressions of indignation and anger at the plight of the Rwandan refugees and displaced Zairians appear hypocritical and even cynical. Furthermore, the

question of nationality was a matter of State sovereignty and was not subject to interference from the international community or the Commission. Any problems in that regard should be solved through dialogue within the framework of the international conventions to which Zaire was a party; however, that procedure could in no way legitimize fraudulent acquisition of Zairian nationality.

32. Continuation of the process of democratization with a view to the establishment of the rule of law and the international community's support for the rehabilitation of Zaire, particularly the eastern part of the country, were the best guarantees of improved protection of human rights there. The National Commission for the Promotion and Protection of Human Rights should be strengthened in cooperation with civil society and human rights organizations. To that end, his Government hoped to contact the High Commissioner for Human Rights and the country's other partners in order to set up a technical cooperation programme aimed at strengthening national human rights institutions. The effectiveness of the fact-finding mission on massacres and human rights violations in eastern Zaire, long requested by his Government, would depend on the speed with which it was carried out and its results published.

33. Mr. LI BAODONG (China) said the conflict in Zaire constituted a major disaster for its own citizens and the refugees stranded in the eastern part of the country and posed a threat to peace and stability in the Great Lakes region and the entire continent. The Organization of African Unity (OAU) had recently convened a special summit in Lomé in order to seek a solution to the crisis. His Government supported the efforts of the OAU, the United Nations and other African countries in that regard and it urged the parties concerned to put an end to the conflict through peaceful negotiation in the interest of Zaire's development and the protection of human rights.

34. Mr. ZAHRAN (Egypt) welcomed the efforts to put an end to the tragedy and human rights violations in Zaire by the means described in the draft resolution. Of particular importance were preparations for the forthcoming elections, a return to political stability and reconstruction, all of which would require a solution to the country's domestic problems on the basis of independence, unity and preservation of its borders. Such a solution would make it possible for displaced persons and refugees to return to their homes and for human rights organizations to do their work. His delegation would vote in favour of the draft resolution and called on the Government of Zaire to cooperate with the High Commissioners for Human Rights in ensuring meticulous implementation of its provisions.

35. Mr. DEMBRI (Algeria) said it was important for OAU mediation in Zaire, as demonstrated at the recent summit in Lomé, to continue. His own country was actively engaged in negotiations aimed at encouraging national reconciliation in that country. The current problems were a legacy of the colonial era and resulted from interference by non-African Powers. If African wisdom was to prevail and the Zairians were to find their own ways of ensuring the return of the refugees and preventing ethnic strife, those external Powers must refrain from attempting to determine who would govern the country.

36. Mr. COMBA (Centre for Human Rights), explaining the financial implications of the draft resolution, said the costs of the joint mission by the Special Rapporteurs on the situation of human rights in Zaire and on extrajudicial, summary or arbitrary executions and a member of the Working Group on Enforced or Involuntary Disappearances (para. 6 (a)) would be met through voluntary contributions. Extension of the mandate of the Special Rapporteur for one year (para. 6 (c)) would require an allocation of US$ 88,600 under section 21 of the programme budget for the biennium 1996-1997. The budgetary requirements for the first quarter of 1998 would be included in the proposed programme budget for the biennium 1998-1999.

37. Draft resolution E/CN.4/1997/L.89 was adopted without a vote.

Draft resolution on the situation of human rights in the Sudan (E/CN.4/1997/L.90)

38. Mrs. RUBIN (United States), introducing the draft resolution, said the sponsors believed that, as in previous years, the text accurately reflected the grievous conditions and activities that continued to exist in the Sudan. On the other hand, they appreciated the spirit of cooperation displayed by the Sudanese delegation, which, by accepting the language of the resolution, had implicitly recognized the gravity of the situation and acknowledged that some agents of the Sudanese authorities had authorized or committed some of the worst human rights violations in the country.

39. The next step was for the Government to implement the recommendations made in the draft resolution and by the special and thematic rapporteurs and to allow the Special Rapporteur to return to the Sudan and visit all parts of the country. The Government must follow through on its commitment to conduct or permit a thorough investigation of possible human rights violations in the Sudan and to share the results of those investigations with its own people and the Commission. Those responsible for human rights violations must be tried in accordance with internationally acceptable standards and, if found guilty, punished under the law. She noted that the Government had expressed its willingness to seek technical assistance from the Centre for Human Rights and other appropriate bodies.

40. Mrs. KLEIN (Secretary of the Commission) announced that Argentina, Belgium, France, Greece, Ireland, Israel, Japan, Liechtenstein and Luxembourg had joined the sponsors of the draft resolution.

41. Mr. EL MUFTI (Observer for the Sudan) expressed his appreciation to the delegation of the United States for agreeing to include some positive elements in the text of the draft resolution. However, the draft contained many unverified allegations of violations, and some of the language used was based on misinformation derived from reports and statements by NGOs allied with armed rebel factions. In view of the explanation provided by his Government, which had been intended to inaugurate a new era of cooperation with the Special Rapporteur on the situation of human rights in the Sudan, the negative references in the draft resolution to the Special Rapporteur's most recent visit and to the circumstances surrounding its termination were inappropriate. Lastly, his delegation had repeatedly expressed its objections to the placement of human rights field officers, as proposed in paragraphs 25 and 26,

since the Sudan was guaranteeing a regular flow of information and had shown its willingness to deal with and correct any proven human rights violations. Insistence on such measures was not conducive to the promotion and protection of human rights or to the cooperation required in that context.

42. Mr. COMBA (Centre for Human Rights), explaining the financial implications of the draft resolution, said that extension of the mandate of the Special Rapporteur for one year (para. 20) would require an allocation of US$ 73,400 under section 21 of the programme budget for the biennium 1996-1997. The budgetary requirements for the first quarter of 1998 would be included in the proposed programme budget for the biennium 1998-1999.

43. Mr. ZAHRAN (Egypt), speaking in explanation of vote before the voting, stressed the need to ensure observance, and condemn all violations, of human rights and fundamental freedoms in all parts of the world. His delegation had often stated that the Commission should not countenance double standards and selectivity or consider matters beyond its mandate. Although it was important to ensure respect for human rights and fundamental freedoms, it was essential to respect the sovereignty of the Sudan. The authorities of the Sudan must also maintain neighbourly relations with other States and not interfere in their affairs or foster terrorism.

44. If there was a separate vote on paragraph 25 of the draft resolution, which recommended that priority should be given to the placement of human rights field officers to monitor the situation of human rights in the Sudan, his delegation would vote against it because the political and legal implications of the placement of such observers were not clear. If the draft resolution was put to a vote, his delegation would abstain.

45. Mr. DEMBRI (Algeria) said he shared with other delegations the hope that the Sudanese Government would commit itself to respect for democratic freedoms and human rights. However, he regretted that the frequent references in the draft resolution to the activities of terrorist groups in various parts of the country attributed such activities only to the Government rather than to the non-State elements which were, in fact, involved.

46. He shared the representative of Egypt's views concerning article 25 of the draft resolution. Traditionally, all thematic and special rapporteurs were under the control of the Commission; however, the words "under the modalities and with the objectives suggested by the Special Rapporteur" would give full autonomy to the Special Rapporteur, thereby threatening State sovereignty. Unless that paragraph was amended, his delegation would abstain in the vote on the draft resolution.

47. Draft resolution E/CN.4/1997/L.90 was adopted without a vote.

Draft resolution on the situation of human rights in China (E/CN.4/1997/L.91)

48. Mr. LEHMANN (Denmark), introducing the draft resolution, said that all States Members of the United Nations were obliged under the Charter and other applicable instruments to protect human rights and fundamental freedoms and should be held accountable for the international human rights standards they had endorsed.

49. The draft resolution recognized the fact that China was a party to various international instruments and that it had succeeded in enhancing its people's enjoyment of their economic rights. The Chinese Government's recent announcement that it would soon sign the International Covenant on Economic, Social and Cultural Rights was a welcome first step towards accession to that instrument. However, the Commission could no longer remain silent in the face of continued reports of violations of basic civil and political rights, including freedom of assembly, association, expression and religion and the right to due process and a fair trial. The plight of the Tibetans was a further concern.

50. The sponsors considered that it was time for the High Commissioner for Human Rights to enter into dialogue with the Chinese Government in accordance with his mandate under paragraph 4 (g) of General Assembly resolution 48/141 (1993). The High Commissioner was, in turn, asked to report to the Commission on the progress of that dialogue. The sponsors did not wish the draft resolution to be interpreted as confrontational in nature. The proposed dialogue fell within the mandate of the High Commissioner which had the approval of the Chinese Government; moreover, such bilateral dialogue in no way excluded multilateral dialogue with other parties. Lastly, he noted that paragraph 4 of the Vienna Declaration and Programme of Action stated that the promotion and protection of all human rights constituted a legitimate concern of the international community.

51. Mr. WU Jianmin (China) said that draft resolution E/CN.4/1997/L.91 was the seventh of its kind to be placed before the Commission by certain Western countries. It was a gross distortion of reality to assert that China had a deplorable human rights record. That had indeed been the case prior to the 1949 Revolution, the very purpose of which had been to make the Chinese people the masters of their own destiny. China's ongoing modernization programme was in essence a war against poverty, backwardness and hunger. Since 1978, when the country had begun to implement its policy of reform, nearly 200 million people had been lifted out of poverty. Over the past 20 years, over 300 laws and regulations had been adopted by China's legislative body and more than 4,000 regulations had been passed by local people's congresses. His country had made unprecedented progress towards the establishment of democracy and a legal system, and his Government had made tremendous efforts to promote the civil, political, economic, social and cultural rights of the Chinese people.

52. The real purpose of certain Western countries in repeatedly proposing anti-China resolutions was to attempt to dominate China's fate in what was perhaps a legacy of the colonial era. Since the initiation of reform, China had sent hundreds of thousands of students abroad in order to learn from others. However, many countries which had followed the pattern prescribed by the West were currently facing economic collapse, war and internal strife, which were in sharp contrast to the increasing prosperity of China. If 1 per cent of the Chinese population had fled the country as a result of a similar crisis, the result would have been an overnight disaster for Asia and the entire world as 12 million people flooded into east Asia. The Chinese people had followed their own path for over 5,000 years. No force on earth, let alone a few anti-China draft resolutions, could stop the country's 1.2 billion people from advancing.

53. It was sheer demagogy to claim that the no-action motion proposed by his delegation constituted a request for special treatment or non-cooperation. China had ratified or acceded to 17 international human rights instruments, reported periodically to the treaty bodies and respected their views. The Commission voted on draft resolutions approximately one week after it began consideration of human rights situations in the country concerned. During that week, China had become the focus of attack by certain Western countries, which claimed that the annual Chinese no-action motion did not conform to the rules of procedure. In fact, no-action motions were proposed at the meetings of many United Nations bodies and were clearly provided for in the rules of procedure: they had been proposed in the Commission on six occasions during the past seven years.

54. He appealed to the countries which had submitted the draft resolution to return to the path of dialogue and cooperation. The draft was a foolish act which went against the trend of history; time was on the side of the Chinese, and he advised the sponsors to give up their doomed cause or suffer repeated defeat. It did not matter that States disagreed on human rights issues; what was important was to resolve those differences through dialogue on the basis of equality. The draft resolution was directed not only at China, but at all developing and justice-loving countries.

55. His delegation accordingly proposed, in accordance with rule 65 (2) of the rules of procedure, that the Commission should take no action on draft resolution L.91 and requested a roll-call vote on that motion. It appealed to delegations to support that motion since what had happened to China could one day happen to their own countries.

56. The CHAIRMAN announced that the following 14 speakers wished to explain their votes before the voting.

57. Mr. BAUM (Germany) said his delegation took the view that the Commission was fully entitled to discuss and take action on human rights situations in all parts of the world. All members of the Commission had been present at the conference which had resulted in the Vienna Declaration and Programme of Action, in which it had been established that the situation of human rights in any country was a legitimate concern of the international community. Members of the Commission had a particular responsibility for the promotion and protection of human rights and should ensure that each situation was dealt with on its merits. As in previous years, his delegation would vote against the procedural motion proposed by China.

58. Mr. SHATTUCK (United States) said his delegation did not seek confrontation with China and believed the Commission was an appropriate forum for discussion of the situation of human rights in that country. It objected to the no-action motion proposed by China because it believed that there were serious human rights concerns in that country which should be considered by the Commission and because it was concerned that any effort to bypass the Commission might undermine its integrity and give the impression that its members were indifferent to the very principles that it was charged with defending. By voting against the Chinese motion, members would keep faith with women and men around the world who had suffered for daring to stand up for democracy and freedom.

59. Ms. ANDERSON (Ireland) said her delegation associated itself with the statement made by the representative of Denmark. She recognized that every country represented in the Commission had its own history and individuality but hoped that they shared a readiness to recognize problems where they existed and to discuss ways of addressing them together. There was no question of imposing a national or regional perspective; the Universal Declaration of Human Rights, the Vienna Declaration and Programme of Action, and the internationally accepted human rights instruments provided a shared basis for discussion. Membership of the Commission entailed both rights and obligations, and the Commission would fail the international community if it allowed procedural devices to block discussion of issues of substance. She therefore urged the members of the Commission to vote against the no-action motion and in favour of the draft resolution.

60. Mr. GOONETILLEKE (Sri Lanka) said that no-action motions were used from time to time by other United Nations bodies, including the General Assembly, in cases where the majority of the members did not think that adoption of a draft resolution was the best way to achieve results. Having made several unsuccessful attempts to introduce draft resolutions on the situation of human rights in China, the sponsors should have sought alternative ways of persuading China to improve that situation through consultation, dialogue and cooperation. Paragraph 1 of the draft acknowledged that there had been improvement in that regard, and the Commission should encourage China to continue to make progress rather than supporting a resolution which could not produce the desired result.

61. His delegation therefore supported the no-action motion and hoped that during the next year, the interested parties would attempt to engage China in genuine dialogue with a view to improving the human rights situation in that country.

62. Mr. TOSCANO (Italy) said that, once again, the Commission had before it a no-action motion aimed at preventing its members from expressing their opinion on a draft resolution which unquestionably fell within its mandate and competence. While consensus was desirable and cooperation and non-confrontation should be the Commission's main goals, its members should be able to express disagreement, when necessary, by voting. His delegation would vote against the no-action motion.

63. Mr. KONISHI (Japan) said he had already stated his delegation's position on human rights in China. While Japan attached great importance to dialogue and technical cooperation and had not become a sponsor of the draft resolution, it considered that the promotion and protection of human rights was a legitimate concern of the international community and that the Commission had a particular responsibility in that regard. His delegation was therefore unable to support the no-action motion.

64. Mr. BERNARD (France) said he agreed with previous speakers that the Commission's right to consider the situation of human rights in any country should be respected by all members. His delegation would vote against the no-action motion.

65. Mr. ALI (Malaysia) said the fact that the draft resolution on the human rights situation in China had been rejected for the past six years showed that the Commission saw no need to consider it. A constructive approach to the promotion and protection of human rights through dialogue was far more likely to achieve results. His delegation would vote in favour of the no-action motion.

66. Mr. HYNES (Canada) said the draft resolution and the no-action motion presented a dilemma for many members of the Commission. At the procedural level, there was no good reason why the Commission should not proceed, as it had done in many other situations, to direct action on the merits of the draft resolution or why China should be treated differently from any other country. On the other hand, there was, in fact, a difference between China and other countries; it was the most populous nation on earth, a major political and economic Power, and a permanent member of the Security Council, and its people and Government had a right to be proud of their crucial role in the international community. At the same time, there were serious grounds for concern at China's failure to live up to its international obligations.

67. Canada had decided not to sponsor the draft resolution in 1997 but, instead, to seek other ways of addressing the problem in order to bring about positive change with regard to respect for human rights in China. It hoped that the relevant negotiations would be both bilateral and multilateral in nature and expected China to follow up on its commitment to broaden cooperation with the United Nations in the field of human rights. Nevertheless, his delegation considered that the Commission should not be prevented from taking a decision on the merits of the draft resolution. It would therefore vote against the no-action motion and, should the draft resolution come to a vote, would vote in favour of it.

68. Mr. PERREIRA (Angola) said the fact that the draft resolution had been rejected for the past six years showed that it was unnecessary; moreover, the wording of the current version was virtually identical to that of previous years. His delegation failed to understand why some countries persisted in wasting time and misusing United Nations resources in such a futile exercise and would support the no-action motion.

69. Mr. KRAVETZ (El Salvador) said his delegation would vote against the no-action motion because it considered that such motions were, in principle, incompatible with the Commission's duty to promote human rights throughout the world.

70. Mr. STROHAL (Austria) said the no-action motion was unacceptable in principle because it presupposed the substantive incompetence of the Commission, despite the fact that the question of the violation of human rights in any part of the world had been an item on the Commission's agenda for many years. The no-action motion could be appropriate only in the context of rule 65 of the rules of procedure, which dealt with situations where two or more proposals on a single topic had been submitted to the Commission; that did not apply to draft resolution L.91. There were no grounds for arguing that the draft resolution was in any way beyond the purview of the Commission and, in any case, all Governments represented at the Vienna Conference had agreed that the promotion and protection of human rights was a legitimate

concern of the international community. The draft resolution was prompted not by a wish to dominate, but by legitimate concern and a constructive spirit of cooperation. His delegation therefore urged all members to vote against the no-action motion in order to preserve the credibility of the Commission, the right of its members to take a position on the substance of draft resolution L.91 and the cause of human rights.

71. Mr. Joun Yung SUN (Republic of Korea) said that while his delegation recognized that there was room for improvement in the human rights situation in China, it was encouraged by the efforts made by that country, notably in the area of codification of legal practice. It interpreted the Chinese Government's willingness to sign the International Covenant on Economic, Social and Cultural Rights in 1997 as a sign of its commitment in that regard and welcomed the Government's readiness to exchange information on human rights issues. His delegation was convinced of the importance of dialogue as a means of resolving such issues and would abstain in the vote on the no-action motion.

72. Mr. DEMBRI (Algeria) said he shared other delegations' concern for the situation of human rights throughout the world. No country, whatever its degree of economic, social or cultural development, could claim to instruct another in that regard. He was disturbed by the fact that draft resolution L.91 was not the result of consensus or extensive consultations aimed at avoiding confrontation. Its sponsors were essentially the States of the Western world and, as the media had widely reported, even they had disagreed on its substance.

73. It was true that the no-action motion blocked debate; however, such a motion was permitted under the rules of procedure, which had been agreed by all members of the Commission. The draft resolution had been rejected for the past six years and, throughout that time, there had been no general will to implement rule 77 or 78 of the rules of procedure by amending or suspending any of its rules. The claims of some delegations to be upholding democratic practice were merely a pretext for trying to advance their own position by amending the Committee's procedure. The Chinese delegation was fully entitled to assert its rights under the rules of procedure, and his own delegation would vote in favour of the no-action motion.

74. Mr. KRPAC (Czech Republic) said he concurred with those delegations, particularly those of Ireland and Australia, which had stated that the Commission was competent to deal with the matter under discussion and that the no-action motion was inappropriate. His own delegation would prefer the Commission to engage in a substantive discussion of the issue, as was usual under agenda item 10, rather than adopting the procedural motion proposed by China.

75. Mr. van WULFFTEN PALTHE (Netherlands) said there was nothing inherently illegal about no-action motions. He could not support the Algerian representative's suggestion that the Commission should amend its rules of procedure in order to remove that possibility. However, the no-action motion was designed to allow United Nations bodies to avoid dealing with extraneous issues, and it could hardly be argued that the situation of human rights in China was extraneous to the Commission. A country like China, which was

large, important and a permanent member of the Security Council, had a special responsibility and, by seeking to abuse the Commission's rules of procedure in order to avoid debate on its own situation, set a bad example for the Organization as a whole and those of its members which sought serious debate not only on human rights, but on other issues as well. No other country abused the no-action motion in that way, and he hoped that China had done so for the last time.

76. Mr. ALFONSO MARTINEZ (Cuba) said that the no-action motion was the best way of combating an initiative which had nothing to do with current reality in China and introduced an element of confrontation which, rather than encouraging international cooperation, could only worsen the already politicized atmosphere of the Commission.

77. Rule 65 of the rules of procedure had existed long before 1971, when China's legitimate position in the United Nations had been restored. It was not true that that rule was intended to be used only when more than one resolution on a single topic had been placed before the Commission; rather, as the representative of Sri Lanka had said, it could be invoked whenever the majority of the members of the Commission considered that a draft resolution or decision was not the best way of addressing a problem. A no-action motion in no way implied the Commission was not competent to deal with an issue; no one doubted its competence to study the situation of human rights in any Member State. Furthermore, the representative of the Netherlands had been wrong in stating that China was abusing the proper function of the no-action motion. The real abuse was to compel the Commission year after year to face the issue of a draft resolution which it did not wish to consider. Rejection of the draft resolution strengthened, rather than calling into question, the credibility of the Commission and, since such a motion required the approval of the majority, it was in no way undemocratic.

78. Mr. SIMKHADA (Nepal) said his delegation had consistently maintained that singling out a country or group of countries was not conducive to improvement of the human rights situation unless what was involved were persistent, blatant human rights violations in which due process was consistently flouted. As a close neighbour of China, Nepal had been in a position to witness all the changes in that society. China had amply demonstrated its willingness to engage in dialogue and cooperation with a view to further improvement. His delegation therefore associated itself with the statement made by the representative of Sri Lanka and would support the no-action motion.

79. Mr. STEEL (United Kingdom) said the matter under discussion was not the human rights record of China, but the right of the Commission to consider a draft resolution on its merits. He regretted that, once again, a powerful country and permanent member of the Security Council whose record in many ways deserved respect was trying, through pressure and blandishments, to stifle discussion of a topic which was of genuine concern to members of the Commission and the outside world. No other country, whether the United States, the Russian Federation, Cuba, Colombia or, in former years, the Soviet Union, Chile or South Africa, had sought to dictate to the Commission in that way.

80. The representative of China had adduced a number of fallacious arguments in support of the no-action motion. He had claimed that draft resolution L.91 did not fall within the terms of agenda item 10 because the situation of human rights in China did not reveal a "consistent pattern of gross violations of human rights". However, that wording appeared only in subparagraph (b) of the agenda item, the main subject of which was the violation of human rights and fundamental freedoms in any part of the world. He had also stated that the tabling of the resolution indicated selectivity, but what could be more selective than to argue that the Commission could discuss human rights violations anywhere in the world except China? He had claimed that the draft resolution lacked objectivity. The question whether it did so could be dealt with during discussion of the draft, at which time his own delegation would be pleased to listen to the Chinese delegation's arguments in that regard. However, the question had no bearing on the issue of whether that discussion should be held. Lastly, he himself was puzzled by the Chinese representative's claim that the draft resolution demonstrated a lack of impartiality since impartiality would appear to require that the Commission should give no special treatment to any country, whereas China was, in fact, asking it to do so. Impartiality also required that any views expressed or decisions taken in the Commission should be based on the merits of the case at hand rather than on the identity of the country concerned.

81. The representative of Austria had correctly stated that it was a misreading to use rule 65 (2) of the rules of procedure as the basis for a no-action motion. It was clear that the "motion requiring that no decision be taken on a proposal" in rule 65 (2) referred to a situation where "two or more proposals ... relate to the same question" (rule 65 (1)). The point was not a technical one. China's no-action motion was, in fact, a concealed invocation of rule 54 of the rules of procedure, which stated that "a motion calling for a decision on the competence of the Commission to adopt a proposal submitted to it shall be put to the vote before a vote is taken on the proposal in question".

82. His own delegation considered that the Commission was competent to discuss the situation of human rights in any country whatever, without prejudice to its ultimate decision on that situation, and invited delegations to vindicate the competence of the Commission and to assert their independence by voting against the no-action motion.

83. Mr. LEHMANN (Denmark) said draft resolution L.91 could not be viewed as confrontational since it called upon the Government of China to engage in a dialogue with the High Commissioner for Human Rights and requested the High Commissioner to report to the Commission on the progress of that dialogue. The no-action motion was, in effect, a challenge to the competence and credibility of the Commission, thus raising an important principle regardless of any delegation's position on the substantive issues raised in the draft resolution. The motion introduced an element of selectivity which ran counter to the letter and spirit of the Vienna Declaration and Programme of Action, paragraph 32 of which reaffirmed "the importance of ensuring the universality, objectivity and non-selectivity of the consideration of human rights issues". A vote against the no-action motion would, therefore, preserve the competence and credibility of the Commission and its democratic procedures.

84. Mr. ZAHRAN (Egypt) said he had already conveyed his delegation's views on the importance of not applying double standards with regard to human rights issues in various parts of the world and had therefore abstained in the voting on a number of draft resolutions. His delegation took the view that dialogue and cooperation were the best way of promoting human rights and regretted that it had not been consulted during the preparation of draft resolution L.91, in contrast with many other draft resolutions which it had been able to support because the various positions of the Commission's members and observers had been taken into consideration. He had noted a certain politicization in the Commission's debates. It was important for the Commission to ensure dialogue and transparency in the preparation of draft resolutions and to resort to voting only where consensus proved impossible. No delegation should be deprived of its right to invoke rule 65 (2) of the rules of procedure. For all those reasons, his delegation would vote in favour of the no-action motion.

85. Mr. CHOWDHURY (Bangladesh) said he had noted with concern the rising tension and increasing acrimony between delegations. The Commission had major achievements of which to be proud and thrusts and parries, whi'e normal in such a situation, must be kept within acceptable limits. The Commission should testify to the fact that society had come of age; he knew of no other body where States and non-States, Governments and NGOs interacted so freely, yet the Commission could be far more effective than at present. Draft resolution L.91 was, perhaps, not the best way of achieving its own goals. Only dialogue and consultation could lead to change. His delegation would, therefore, prefer that no action should be taken on the draft resolution.

86. Mr. AKRAM (Pakistan) said he had read draft resolution L.91 with regret and consternation and hoped that the Commission would reject it as it had done for the past six years. Under Article 55 of the Charter the Commission's primary responsibility was to promote stability and friendly relations among States. It was clear from the debate that the draft resolution was, instead, likely to promote confrontation and conflict among major Powers. Pakistan had good relations with the sponsors of the draft resolution and with China and did not wish to see confrontation between them. Rule 65 (2) of the rules of procedure had been specifically intended to ensure that no action was taken which was contrary to the Commission's objectives; it was, therefore, perfectly appropriate to the situation.

87. Some had said that China sought to dictate to the Commission. In reality, the boot was on the other foot; China had not asked anyone to submit the draft resolution. Those who sought to dictate to the Commission were those who persisted in submitting that draft year after year. There were other, far more serious, situations of persistent violations of human rights which the sponsors of the draft resolution, and the Commission as a whole, chose to ignore year after year. His own delegation had brought some of those situations to the attention of most of the sponsors and had been told not to raise such issues in the Commission because the countries concerned would refuse to cooperate with the human rights treaty bodies. There was no question that China was being selectively and politically targeted because it was a major emerging Power in Asia and the third world. Anyone who had visited the country knew that the human rights situation there was improving and had witnessed the transformation in the lives of the Chinese people.

88. The representative of the Netherlands had expressed the hope that China had proposed a no-action motion for the last time. He, in turn, hoped that the sponsors of the doomed draft resolution had placed it before the Commission for the last time.

89. At the request of the representative of China, a vote was taken by roll-call on the no-action motion which his delegation had proposed.

90. Bangladesh, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Algeria, Angola, Bangladesh, Belarus, Benin, Bhutan, Cape Verde, China, Colombia, Cuba, Egypt, Ethiopia, Gabon, Guinea, India, Indonesia, Madagascar, Malaysia, Mali, Mozambique, Nepal, Pakistan, Sri Lanka, Uganda, Ukraine, Zimbabwe, Zaire.

Against: Austria, Bulgaria, Canada, Chile, Czech Republic, Denmark, El Salvador, France, Germany, Ireland, Italy, Japan, Netherlands, Nicaragua, South Africa, United Kingdom, United States.

Abstaining: Argentina, Brazil, Dominican Republic, Ecuador, Mexico, Philippines, Republic of Korea, Russian Federation, Uruguay.

91. The no-action motion proposed by China was adopted by 27 votes to 17, with 9 abstentions.

The meeting rose at 9.20 p.m.

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COMMISSION ON HUMAN RIGHTS

Fifty-third session

SUMMARY RECORD OF THE 66th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 16 April 1997, at 10 a.m.

Chairman: Mr. SOMOL (Czech Republic)

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GE.97-12465 (E)

The meeting was called to order at 10.40 a.m.

ORGANIZATION OF THE WORK OF THE SESSION (agenda item 3) (continued)

1. The CHAIRMAN said that, following consultations with the parties concerned, it had been decided that he would make the following statement concerning the situation of human rights in Colombia:

"The Commission on Human Rights warmly welcomes the opening of the permanent Office of the High Commissioner for Human Rights in Santa Fe de Bogota. It welcomes the commitment of the High Commissioner and of the Government of Colombia to the establishment of this Office, as can be seen from the intensive negotiations leading to the successful conclusion and signing, on 29 November 1996, of the agreement between the aforementioned parties on the establishment of the said Office. The Commission would have expected the Office to open more promptly, and expresses the hope that it will initiate its operational activities immediately. In accordance with the statement by the Chairman of this Commission on 23 April 1996, the office is to assist the Colombian authorities in developing policies and programmes for the promotion and protection of human rights and to observe violations of human rights in the country, making reports thereon to the High Commissioner.

The Commission also acknowledges the efforts carried out by the Government of Colombia in the field of human rights and its willingness to cooperate with the Commission's special rapporteurs and working groups.

Notwithstanding the above, the Commission on Human Rights remains deeply concerned that the situation of endemic violence and the situation of internal armed conflict affecting many parts of the country have resulted in serious consequences for human rights.

The Commission on Human Rights is also deeply concerned at the persistence of thousands of violations of the right to life, and the increasing involvement therein of so-called 'paramilitary groups'. This conflict entails serious and continuous abuses and violations of human rights and humanitarian law by both State agents and guerrilla groups.

The Commission urges the Government of Colombia to continue to strengthen its support, through all institutions of the State, for all those who promote the defence of human rights.

The Commission urges the guerrilla groups in Colombia to respect norms of international humanitarian law and, especially, to abandon the use of kidnapping, hostage-taking, anti-personnel landmines, indiscriminate killings and all attacks on the civilian population. The Commission calls for the liberation, on humanitarian grounds, of the 70 Colombian soldiers held by a guerrilla group since August 1996.

The Commission on Human Rights acknowledges that the Government of Colombia has taken steps for the application of humanitarian standards

in the conflict, and welcomes its continued cooperation with the International Committee of the Red Cross (ICRC) and the facilitation of its humanitarian activities in the country.

The Commission on Human Rights remains deeply preoccupied at the numerous cases of disappearances, as shown in the report of the Working Group on Enforced or Involuntary Disappearances (document E/CN.4/1997/34). The application at the national level of the Declaration on the Protection of all Persons from Enforced Disappearances faces several obstacles, generating impunity.

The Commission on Human Rights calls for the urgent adoption of more effective legislative, administrative, judicial or other measures to prevent and terminate acts of enforced disappearance in accordance with article 3 of the Declaration.

The Commission on Human Rights remains concerned at the alarming level of impunity, in particular concerning abuses by State agents that continue to fall under the jurisdiction of military courts; it encourages the Government of Colombia to continue and conclude the process of reform of the military penal code in accordance with the recommendations made by the thematic rapporteur, inter alia as far as the exclusion from the jurisdiction of military courts of human rights violations, and in particular of crimes against humanity, is concerned. It welcomes the important advances made in a number of cases of gross human rights violations by the Human Rights Unit in the Office of the General Prosecutor which is investigating and indicting State agents, guerrillas and members of 'paramilitary groups' responsible for violations of human rights or humanitarian law.

The Commission on Human Rights is deeply concerned also about the persistence of the practice of torture. The information before the Committee against Torture indicates that the law in Colombia is not yet in accordance with several obligations under the Convention against Torture. It calls upon the Government of Colombia to combat the occurrence of torture and ill-treatment as well as the impunity which permits them to continue, as stated by the Special Rapporteur on torture in his report (E/CN.4/1997/7).

The Commission on Human Rights urges the Government of Colombia to continue strengthening ordinary justice versus special systems of justice, the misuse of which can lead to serious violations of human rights and denial of a fair trial.

While encouraging the work of the Special Commission set up by the Government of Colombia for the analysis, follow-up and implementation of the recommendations of international human rights bodies, the Commission on Human Rights considers that the implementation of these recommendations, in particular those of the thematic rapporteurs and working groups, is still not sufficient.

The Commission expects that the activities of the new human rights office in Bogota will help to improve the human rights situation in

Colombia, and to promote a climate of trust between the Government and all sectors involved in the conflict, encouraging a process of constructive dialogue involving NGOs and other sectors of civil society, and to prevent violations of human rights and international humanitarian law.

The Commission on Human Rights requests the High Commissioner to present a comprehensive analytical report to the Commission at its fifty-fourth session on the setting up of the office and its activities, and on developments in the human rights situation in Colombia."

2. He said that, following consultations, he could read out the following statement noting the consensus that the Commission had reached concerning the situation of human rights in Liberia:

"The Commission on Human Rights, meeting in Geneva from 10 March to 18 April 1997, and recalling the Chairman's statement on the situation of human rights in Liberia dated 24 April 1996, at the 62nd meeting of the fifty-second session of the Commission on Human Rights, and all previous Security Council resolutions on Liberia, in particular resolution 1041 (1996) of 26 January 1996, welcomes the signing of the Abuja Agreement and the revised schedule of implementation in August 1996, by the factional leaders in Liberia. The Commission also welcomes the substantial progress made in the demobilization and disarming of the warring factions in conformity with the schedule of implementation expected to culminate in a general election scheduled to take place in Liberia in May 1997, and urges all Liberians to move speedily towards reconciliation and the creation of a viable political and democratic order in their country.

To this end, the Commission notes with appreciation that several political parties have been registered with the newly restructured Election Commission, headed by a non-factional chairman, and that plans are under way to appoint a new head and other senior members of the judiciary.

The Commission expresses its sincere appreciation to the Economic Community of West African States (ECOWAS) and the Economic Community of West African States Monitoring Group (ECOMOG), and notes the need for the strength of the peacekeeping troops on the ground to be increased in order to ensure security in the country during the election period. In this connection, the Commission calls upon all States of the United Nations system and intergovernmental and non-governmental organizations to provide Liberia with technical and financial assistance to cope with the humanitarian situation and to provide ECOMOG with necessary logistic and financial support to enable it to carry out its mandate.

The Commission also expresses its appreciation to the States that have so far contributed to the United Nations Trust Fund on Liberia and calls upon other States to contribute generously to the Fund. It also expresses its gratitude to the Organization of African Unity (OAU),

the United Nations, ICRC, NGOs and the international community for their efforts in delivering humanitarian assistance to, and ensuring peace in, Liberia.

The Commission stresses the need for cohesion among the factions/parties, currently divided along ethnic groups, to abide by the terms of the Abuja Accord and the nation's electoral law and encourages the Group of Nine West African States that meets monthly in Monrovia to give impetus to the issue of cohesion amongst the factions and to act as a check on any excesses of the factions.

The Commission urges the Centre for Human Rights to provide the Government of Liberia, at the end of the election and on request, with advisory services and technical assistance to enable it to revive its ailing human rights structures and mechanisms and calls upon the United Nations Secretary-General to consider sending international electoral monitors and human rights monitors to Liberia, at least during and after the election.

The Commission decides to remain seized of the matter under agenda item 18 entitled 'Advisory services'."

CONSIDERATION OF DRAFT RESOLUTIONS AND DECISIONS CONCERNING AGENDA ITEM 10

Draft resolution E/CN.4/1997/L.95 (Situation of human rights in Iraq)

3. Mr. VAN WULFFTEN PALTHE (Netherlands), presenting the draft resolution, said that the situation of human rights in Iraq had unfortunately not improved. Hence, the draft resolution condemned the massive and extremely grave violations of human rights by the Government of Iraq and called upon the latter to abide by its freely undertaken obligations and to cooperate with United Nations human rights mechanisms, in particular by receiving a return visit by the Special Rapporteur to Iraq. The Government of Iraq was also requested to cooperate with the Tripartite Commission to establish the whereabouts and resolve the fate of the remaining several hundred missing persons, including prisoners of war, Kuwaiti nationals and third country nationals victims of the illegal Iraqi occupation of Kuwait, and to ensure equitable distribution without discrimination to the Iraqi population of the humanitarian supplies purchased with the proceeds of Iraqi oil in implementation of Security Council resolution 986 (1995) and the memorandum of understanding with the Secretary-General of May 1996 on that issue.

4. The numerous sponsors of that resolution hoped that it would be adopted without a vote.

5. Mrs. KLEIN (Secretary of the Commission) announced that Japan, Estonia and Australia should be added to the list of sponsors.

6. Mr. AL-DOURI (Observer for Iraq) said that he wished, at the outset, to emphasize that the draft resolution under consideration was a further example of the persistent desire of some States to politicize the question of human rights and turn it into the instrument of their hegemony.

7. Several Security Council resolutions were mentioned in subparagraph (b) of the third preambular paragraph. Concerning resolution 688 (1991), it should be noted that the Iraqi Government had cooperated fully with the various humanitarian organizations providing aid for the Iraqi people. With regard to resolution 687 (1991), Iraq had repeatedly stated that, following the cessation of hostilities, it had released all the prisoners of war in close cooperation with the International Committee of the Red Cross. It had complied strictly with that resolution 687 (1991), as well as all the other Security Council resolutions concerning Kuwait. Consequently, it must be assumed that, if some Powers had seen fit to mention all those instruments, it was solely in order to confuse the members of the Commission and justify the maintenance of the embargo that had been imposed on Iraq. With regard to resolution 986 (1995), he pointed out that, almost six months after the entry into force of the memorandum of understanding that had been signed with the United Nations, the Iraqi people were still awaiting the food supplies that were to be delivered to them. As for the medicines, only 5 per cent of the orders placed by Iraq had been accepted and no delivery had yet been made.

8. Paragraph 2 (a) referred to massive violations of human rights. Such accusations had been reiterated every year since the war of aggression launched by the coalition forces against Iraq and no one had attempted to verify whether they were substantiated or to determine whether progress had been made towards the elimination of the problems that were impeding the promotion of human rights in Iraq. In fact, the sole aim of the authors of those accusations was to harm Iraq, increase the political pressures to which it was being subjected and maintain the embargo.

9. In paragraph 3 (c), Iraq was called upon to cooperate with United Nations mechanisms. He wished to reaffirm that the Iraqi authorities were cooperating fully with the United Nations organs concerned with human rights and were making every effort to ensure that their reports to the treaty-monitoring bodies were presented on time. With regard to the Special Rapporteur, the Iraqi Government had repeatedly expressed its views on his reports. It regretted Mr. Stoel's inveterate hostility towards Iraq and his continued pursuit of a selective and biased approach to the situation of human rights in the country. The Iraqi Government categorically rejected the idea of sending human rights monitors to Iraq, since that would constitute unacceptable interference in its internal affairs.

10. The insinuation in paragraph 3 (d), to the effect that the judiciary in Iraq was not independent, was totally unrealistic. Moreover, the country had not promulgated any law granting impunity to persons who had committed acts of murder.

11. It should be noted that the decrees, issued in exceptional circumstances and providing for the application of penalties that were described as "cruel" in paragraph 3 (e), had been abrogated and the competent United Nations organs had been duly informed of that fact.

12. In paragraph 3 (h), Iraq was called upon to cease its repressive practices against the Kurds in the north. In that connection, it might be wondered how the Central Government, which had no military or civilian administration in that region, could have engaged in the acts of which it was

accused. Similar allegations were made concerning the population of the southern marsh areas. The Iraqi Government had already had occasion to point out that the work that was being carried out in the marsh areas consisted of development projects that had been formulated several years earlier by American, European and Japanese companies. By virtue of those projects, those areas were currently making a valuable contribution to the Iraqi population's food supplies.

13. With regard to paragraph 3 (k), the Iraqi delegation wished to reaffirm the Government's strong desire to comply with the memorandum of understanding. It was the United States and the United Kingdom which were obstructing the application of its provisions and which should therefore be held responsible for the suffering that the Iraqi people were continuing to endure. The sponsors of the draft resolution had naturally disregarded the attitude of those two countries and had not even seen fit to remind them that the memorandum of understanding was a technical document that should not be politicized. Furthermore, the mere fact of calling upon Iraq to apply that instrument illustrated the evident bias of the sponsors.

14. Although the promotion of human rights was a noble objective, there was a risk that the international community's endeavours in that field might lose all credibility if it were turned into an instrument of the narrow-minded political interests of some parties. A veritable genocide was being committed in Iraq and responsibility therefor must be born by those who, through the draft resolution under consideration, were seeking to maintain the embargo that had been imposed on the Iraqi people. Was that not a flagrant violation of human rights? For all the above reasons, the Iraqi delegation appealed to all the States Members of the Commission to vote against the draft resolution.

15. Mr. RAZZOOQI (Observer for Kuwait) drew the attention of the sponsors of the draft resolution to a slight error: in paragraph 4 (a) of the English version, the words "fifty-third" should be replaced by "fifty-fourth".

16. He welcomed the fact that the draft resolution mentioned Security Council resolution 686 (1991), in which Iraq was called upon to release all Kuwaitis and nationals of other States whom it might still be holding in detention, and pointed out that the United Nations had established mechanisms to ensure that the coercive provisions adopted under Chapter VII of the Charter were respected. It was high time to put those mechanisms into effect, since no progress had been made during the last six years in regard to the fate of the missing persons. In that matter, Iraq must be held responsible not only morally, for having invaded Kuwait, but also legally under the standards of international law. Since its mandate was to defend human rights throughout the world, the Commission should support Kuwait's just cause by adopting the draft resolution under consideration.

17. Mr. DE ICAZA (Mexico) requested clarifications concerning the meaning of the term "Welcomes" in paragraph 1 of the English version, which seemed to have caused the translators problems. In French, that term had been rendered as "Prend note avec intêrêt" and, in Spanish, "Acoge con beneplácito". In resolution 1996/72, the expression used was "Prend acte avec satisfaction". Those were two different concepts. While the Commission could certainly

express appreciation for the Special Rapporteur's work and thank him therefor, how could it welcome with satisfaction a report that painted such a negative picture of the human rights situation in a country?

18. Mr. VAN WULFFTEN PALTHE (Netherlands) said that he could not take a decision on that linguistic problem and requested the Secretariat to ensure that the English term was translated correctly in the different languages. At all events, paragraph 1 contained two concepts: on the one hand, the Commission noted with interest the report presented by the Special Rapporteur and, on the other hand, it expressed its dismay at the content of that report, which was precisely the raison d'être of the draft resolution.

19. Mr. DEMBRI (Algeria) endorsed the remarks made by the representative of Mexico and emphasized that, instead of merely taking note of the reports presented by the special rapporteurs, the Commission all too often commended some of them. It should avoid expressing preferences through wording which, at all events, might hamper an objective assessment of the work accomplished.

20. With regard to the substance of the draft resolution, Algeria, as a member of the Arab League, welcomed Iraq's recognition of Kuwait and the process of democratization that was under way in the country. Although there were still unresolved questions, particularly in connection with the Kuwaiti detainees, the best way to settle them was to continue the dialogue. From that standpoint, while not contesting the substance of the draft resolution, Algeria was astonished that it did not make even the slightest reference to the effects of the embargo on the everyday human rights situation in Iraq, which was characterized by malnutrition and lack of medicine. He urged the Commission to take that humanitarian aspect into consideration in such a way as to balance the draft resolution under consideration. He also expressed reservations concerning the provisions of paragraph 4 (b).

21. For all those reasons, Algeria would abstain in the event of a vote.

22. Mr. COMBA (Centre for Human Rights), presenting the financial implications of the draft resolution, under the terms of which the mandate of the Special Rapporteur would be extended for a further year, indicated that an appropriation of $155,400 to that end had been provided for in section 21 (Human rights) of the programme budget for the biennium 1996-1997. The resources needed for the first quarter of 1998 would be provided for in the proposed programme budget for the biennium 1998-1999.

23. Mr. ZAHRAN (Egypt) said that, although the territorial integrity and sovereignty of Iraq must be preserved, it was essential that human rights and fundamental freedoms be respected everywhere in the world, including that country. The international community was demanding that Iraq release all the Kuwaiti prisoners and shed light on the fate of the missing persons. Moreover, resolution 986 (1995), concerning the purchase of foodstuffs and medicine from oil revenue, should be applied immediately, since the delays were prejudicial to the fundamental rights of the Iraqi people as enshrined in the Universal Declaration of Human Rights.

24. Like other countries, Egypt believed that the unprecedented measures provided for in paragraph 4 (b), which did not fall within the scope of the

Commission's mandate and required the consent of the country concerned, might have serious political repercussions. Consequently, Egypt would abstain if the draft resolution were put to a vote.

25. At the request of the representative of Cuba, a vote was taken by roll-call on draft resolution E/CN.4/1997/L.95.

26. Egypt, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Argentina, Austria, Belarus, Brazil, Bulgaria, Canada, Chile, Colombia, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Ethiopia, France, Germany, Guinea, Ireland, Italy, Japan, Mexico, Netherlands, Nicaragua, Republic of Korea, Russian Federation, South Africa, Ukraine, United Kingdom, United States, Uruguay, Zaire.

Abstaining: Algeria, Angola, Bangladesh, Benin, Bhutan, Cape Verde, China, Cuba, Egypt, Gabon, India, Indonesia, Madagascar, Malaysia, Mali, Mozambique, Nepal, Pakistan, Philippines, Sri Lanka, Uganda, Zimbabwe.

27. Draft resolution E/CN.4/1997/L.95 was adopted by 31 votes to none, with 22 abstentions.

Draft resolution E/CN.4/1997/L.92 (Extrajudicial, summary or arbitrary executions)

28. Mrs. PENNEGÅRD (Observer for Sweden), presenting the draft resolution, read out the amendments which the sponsors had agreed to make thereto. First of all, it had been decided to move the phrase "and relevant provisions of the International Covenant on Civil and Political Rights," from the beginning of the second to the end of the first preambular paragraph. The second paragraph would then read as follows:

"Having regard to the legal framework of the mandate of the Special Rapporteur on extrajudicial, summary or arbitrary executions, including the provisions of Commission resolution 1992/72 of 5 March 1992 and General Assembly resolution 47/136 of 18 December 1992,".

Paragraph 7 had been slightly reworded as follows:

"Notes the important role the Special Rapporteur has played towards the elimination of extrajudicial, summary or arbitrary executions and encourages him to continue, within the framework of his mandate, to collect information from all concerned and to seek the views and comments of Governments in order to be able to respond effectively to reliable information that comes before him and to follow up on communications and country visits;".

29. The sponsors hoped that the draft resolution would be adopted without a vote.

30. Mrs. KLEIN (Secretary of the Commission) announced that Lithuania, Venezuela, Norway and New Zealand had co-sponsored the draft resolution.

31. Mr. ROGOV (Russian Federation) said that the Russian delegation had joined the consensus on the draft resolution under consideration. However, it wished to make a number of comments intended for the Special Rapporteur so that he would take care to avoid exceeding the scope of his mandate and also to avoid any selective interpretation of the provisions of the Commission's resolutions, particularly resolution 1996/62 on hostage-taking which, at Russia's proposal, had been adopted by the Commission without a vote. In paragraph 5 of that resolution, the Commission urged all thematic special rapporteurs and working groups to address, as appropriate, the consequences of hostage-taking in their forthcoming reports to the Commission. However, in spite of the repeated requests of the Russian Federation, the Special Rapporteur had not referred to that resolution in the report that he had presented to the fifty-first session of the General Assembly or in that which the Commission was considering. Such an attitude detracted from the Special Rapporteur's credibility and made cooperation difficult. The Russian Federation would take that into account in the follow-up work on that important question.

32. Draft resolution E/CN.4/1997/L.92, as orally amended, was adopted without a vote.

Draft resolution E/CN.4/1997/L.94 (Human rights in Cuba)

33. Mrs. RUBIN (United States), presenting the draft resolution, noted two corrections that needed to be made to the text. In the second preambular paragraph, the word "Noting" should be replaced by "Recalling also" and, in paragraph 6 of the English text, the comma following the words "Special Rapporteur" should be deleted.

34. The Special Rapporteur on the situation of human rights in Cuba had found no improvement and had called for a full investigation of the incident in February 1996 in which two civilian aircraft had been shot down. The regime was continuing to deny the fundamental freedoms of the population, which were enshrined in the Universal Declaration of Human Rights. Pro-democracy and human rights activists were still being subjected to threats, harassment and intimidation. Cuba was the only country in the Western hemisphere to reject democracy, human rights and economic liberalism. The Cuban Government was continuing to swim against the tide of history by attempting to control the free flow of information, regardless of its origin, and was jamming foreign broadcasts and confiscating computers in order to prevent access to the Internet. That mistrust of everything relating to information was confirmed by the Cuban authorities' persistent refusal to meet the Commission's longstanding request that the Special Rapporteur be permitted to visit the country.

35. The Cuban people wanted to enjoy civic rights and democracy, freely express their opinions, exercise their right to freedom of religion and

organize themselves in the workplace without interference by the Government. They were aspiring to a decent life within the framework of a free economy. Unfortunately, they were being routinely denied all those fundamental rights. The purpose of the draft resolution was to send a clear message to the effect that the Cuban Government must fulfil its obligations.

36. Mrs. KLEIN (Secretary of the Commission) pointed out that Norway, Finland, the Netherlands, France, Luxembourg, Portugal and Switzerland had co-sponsored the resolution.

37. Mr. LI Baodong (China) said that the draft resolution fell totally outside the scope of the Commission's mandate, which was to protect and promote human rights, and should therefore be rejected. Some major Powers were taking advantage of their strong position in order to impose their will on small countries. The political and economic sanctions that were being applied against Cuba were causing the population untold suffering. Hence, it was not the Cuban Government but rather the parties responsible for that situation which the Commission should condemn. For all those reasons, the Chinese delegation would vote against the draft resolution.

38. Mrs. GHOSE (India) noted that the draft resolution on Cuba had been submitted to the Commission for years without any progress being achieved. The time had possibly come to recognize the fact that that manner of addressing a problem which, after all, was of a bilateral nature merely made matters worse and the Commission should therefore reconsider its methods.

39. Mr. DEMBRI (Algeria) said that the bilateral problems underlying the draft resolution could be resolved only through dialogue. It was essential to transcend some contingent events and look to the future. However, the proposed text was unlikely to promote closer understanding between Cuba and the United States. His delegation therefore had serious reservations in that regard.

40. Mr. TARMIDZI (Indonesia) endorsed the viewpoints expressed by Algeria and India.

41. Mrs. HERTZ CADIZ (Chile) said that her delegation, which remained concerned at the situation of human rights in Cuba, intended to vote in favour of the draft resolution. However, she noted that the latter referred to aspects which the Commission had already discussed in 1996 and which did not need to be reiterated at the present session. Moreover, the increasing politicization characterizing the consideration of the draft resolution was disturbing, since the ideological considerations which were being introduced in no way served the cause of human rights. The Chilean delegation, which had already expressed serious reservations at the previous session concerning the manner in which that question was being tackled, invited the Commission to adopt an approach that was more likely to facilitate the effective application of its resolutions.

42. Mr. AMAT FORES (Cuba) said that, year after year, the Commission was called upon to consider a draft resolution which, under the pretext of defending human rights, actually served the interests of the Government of the

United States and was totally in keeping with the hostile and aggressive policy which that country had been pursuing against Cuba for 37 years.

43. Everyone was aware that, in order to obtain the number of votes needed for its draft resolution, Washington engaged in systematic blackmail of numerous Governments. For their part, the Cuban people and Government would continue to improve their society and their democracy and build their future with courage and dignity.

44. However, the Cuban Government was always ready to engage in dialogue and cooperate, on an equal footing, with all those who, in contrast to the Special Rapporteur and the sponsors of the draft resolution, respected Cuba's sovereignty and independence. The Cuban delegation invited all the members who were familiar with the real situation in Cuba to vote against the draft resolution.

45. Mr. COMBA (Centre for Human Rights) presented the financial implications of the draft resolution under which the Special Rapporteur's mandate would be extended for a further year. To that end, an amount of $45,000 had been provided for in section 21 of the programme budget for the biennium 1996-1997. The resources needed for the first quarter of 1998 would be provided for in the proposed programme budget for the biennium 1998-1999.

46. At the request of the representative of Cuba, a vote was taken by roll-call on draft resolution E/CN.4/1997/L.94, as orally amended.

47. The United Kingdom, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Argentina, Austria, Bulgaria, Canada, Chile, Czech Republic, Denmark, El Salvador, France, Germany, Ireland, Italy, Japan, Netherlands, Nicaragua, Republic of Korea, United Kingdom, United States, Uruguay.

Against: Belarus, Bhutan, China, Cuba, India, Indonesia, South Africa, Uganda, Zaire, Zimbabwe.

Abstaining: Algeria, Angola, Bangladesh, Benin, Brazil, Cape Verde, Colombia, Dominican Republic, Egypt, Ecuador, Ethiopia, Gabon, Guinea, Madagascar, Malaysia, Mali, Mexico, Mozambique, Nepal, Pakistan, Philippines, Russian Federation, Sri Lanka, Ukraine.

48. Draft resolution E/CN.4/1997/L.94, as orally amended, was adopted by 19 votes to 10, with 24 abstentions.

Draft resolution E/CN.4/1997/L.96 (Situation of human rights in East Timor)

49. Mr. VAN WULFFTEN PALTHE (Netherlands), presenting the draft resolution on behalf of the States members of the European Union and the other co-sponsors, said that the situation of human rights in East Timor remained a matter of grave concern. It was dealt with in several reports presented to

the Commission in which reference was made to multiple violations (torture, summary executions, etc.). At its previous session, the Commission had approved a statement by the Chairman providing for several practical measures intended to improve the situation, particularly through the dispatch of a special rapporteur to that province, the conclusion of a memorandum of understanding with the Office of the High Commissioner for Human Rights for the implementation of a technical assistance programme, and the assignment to the UNDP Office at Jakarta of an official from the Centre for Human Rights who would be able to visit the province. Unfortunately, during the past year there had hardly been any progress in regard to compliance with the commitments made by Indonesia. Moreover, the Indonesian delegation had shown reluctance to tackle the problem. Consequently, the sponsors had no choice but to present that draft resolution. In that connection, it should be noted that they were calling solely for compliance with the commitments made in the Chairman's statement. They hoped that the draft resolution would be adopted without being put to a vote.

50. Mrs. KLEIN (Secretary of the Commission) announced that Hungary, Liechtenstein, the Czech Republic, Slovakia, Estonia, Brazil, the United States and Bulgaria had co-sponsored the draft resolution.

51. Mrs. GHOSE (India) thanked the States members of the European Union which had sponsored the draft resolution for giving her an opportunity to participate in what she regarded as a debate on their foreign policy. She had noted that, of the 14 draft resolutions presented to the Commission on the subject of country situations, 10 had been submitted by the States members of the European Union and all of them concerned developing countries. Their usefulness was questionable. Moreover, three States had decided to no longer cooperate with the Commission, while affirming their willingness to continue collaborating with the United Nations and other international organizations.

52. At the Commission's last three sessions, statements by the Chairman on the question of human rights in East Timor had been adopted by consensus. The Indonesian Government had declared its willingness to honour its commitments and to cooperate with all the human rights mechanisms. It had taken measures to follow up on the memorandum of intent on technical cooperation, which had been concluded with the Centre for Human Rights in October 1994, and a memorandum of understanding was being negotiated. Furthermore, the Indonesian authorities were currently pursuing a policy of transparency in East Timor, which was now accessible to the representatives of Governments wishing to visit it.

53. It must be assumed, therefore, that the question under consideration was primarily political, although it involved some aspects relating to human rights. The fact was that some former colonial Powers wished to continue exercising jurisdiction over countries that had ceased to be their colonies.

54. In the case in question, it would be more advisable for the Personal Representative of the Secretary-General, who had visited East Timor in March, to continue to offer his good offices with a view to a just and comprehensive settlement of the question. Being convinced that the draft resolution which had been presented could not contribute to a solution, the Indian delegation would vote against it.

55. Mr. TARMIDZI (Indonesia) said that the draft resolution under consideration was evidently of a political nature. During the debates, and even before the session, unfounded accusations had been made against Indonesia and its armed forces concerning, in particular, acts of brutality that had allegedly been committed against detainees. Moreover, it was undoubtedly not a coincidence that Ramos Horta had prepared a statement, which had been read out before the Commission and in which he accused the Indonesian armed forces of committing the same atrocities and attempted to prove his allegations by means of fake photographs.

56. Likewise, the ostentatious concern that the sponsors of the draft resolution had shown at the alleged aggravation of the situation of human rights in East Timor was based on a misinterpretation of the situation in the province. In actual fact, it was Ramos Horta who had declared himself in favour of the organization of more violent demonstrations intended to attract the attention of the international community. Those violent demonstrations occurred when foreign personalities visited East Timor and the Indonesian delegation wondered whether the international community really wished to endorse that type of deliberately organized violence.

57. The policy of the Indonesian Government was to prevent the security forces from ever resorting to practices such as torture, not only because that would detract from their credibility but also because it would lead to further violence.

58. The affirmation by the sponsors of the draft resolution, to the effect that the Indonesian Government had not complied with the commitments made in the statement by the Chairman of the fifty-second session of the Commission, was also totally unfounded. Moreover, it was generally recognized that the invitations extended to the Commission's special mechanisms were the prerogative of the Government concerned and, in the case in question, the Indonesian Government had refused to invite the Special Rapporteur on torture simply because he had already visited the country in 1991.

59. The sponsors also affirmed that Indonesia favoured confrontation to the detriment of cooperation. However, it was the States members of the European Union which had abandoned the courteous approach that they had adopted in recent years in order to confront Indonesia with a fait accompli, without any consultation or prior proposal. They had subsequently proposed to the Indonesian delegation a new draft statement by the Chairman, which the delegation had rejected. A country that was friendly to Indonesia had then offered its good offices to devise an arrangement acceptable to the European Union and Indonesia, but that attempt had proved fruitless since the sponsors believed that the proposal in question did not go far enough.

60. The Indonesian Government had cooperated fully and had shown great flexibility in implementing the technical cooperation agreement that had been concluded with the office of the High Commissioner for Human Rights/Centre for Human Rights. He also emphasized that the memorandum of intent on technical cooperation that had been concluded with the Centre for Human Rights had been drawn up at the request of the Indonesian Government. Moreover, before the High Commissioner's visit to Indonesia in December 1995, it had been decided to convert that memorandum of intent into a memorandum of understanding.

One month before the current session, the Indonesian Government had presented a counter proposal to the draft memorandum of understanding drawn up by the Centre with a view to expediting its finalization. Indonesia had not yet received a reply from the Centre. However, the draft in question appeared to have fallen into the hands of third parties which seemed to want to establish a linkage between the technical cooperation and human rights monitoring functions. Consequently, the Indonesian Government and the official in charge of the office of the High Commissioner had decided to postpone the negotiations until a more opportune date.

61. The Indonesian delegation also rejected the draft resolution because it ran counter to the fundamental principles agreed upon in the Vienna Declaration and Programme of Action, including the principles of objectivity, non-selectivity and impartiality in the consideration of questions relating to human rights. In addition, the adoption of such a subjective and political draft resolution would be likely to impede the efforts of the new Secretary-General, who had undertaken to continue his good offices with a view to reaching a just and comprehensive settlement of the question of East Timor. The Indonesian Government believed that a draft resolution aimed solely at bringing pressure to bear on a Member State could in no way contribute to the positive developments in the field of the promotion and protection of human rights. The Indonesian delegation hoped that the members of the Commission would act wisely by rejecting the draft resolution.

62. Mr. ZAHRAN (Egypt) said that the Egyptian delegation, which had participated in the attempts to ensure that a statement by the Chairman on the question of East Timor could be adopted by consensus, rejected any utilization of the Commission for political ends and refused to allow the question of human rights to be used as a pretext for interference in the internal affairs of a State. Egypt supported the endeavours of the Secretary-General, who had appointed a personal representative for East Timor, welcomed the diligent efforts of the Indonesian Government and encouraged the latter to continue a dialogue with the parties concerned. For all those reasons, it would have been preferable to avoid presenting a draft resolution on the situation of human rights in East Timor. In the event of a vote, the Egyptian delegation would vote against it.

63. Mr. CHOWDHURY (Bangladesh) noted that, once again, an Asian country was being called to account and the predominant impression was one of "déjà vu". The adoption of such a draft resolution, which was totally lacking in objectivity, would be counter-productive. Moreover, the explanations provided by the Indonesian delegation were satisfactory. For that reason, the Bangladeshi delegation would vote against the draft resolution.

64. Mr. DEMBRI (Algeria) noted that a certain feeling of uneasiness could be observed since, while the Commission had been expecting a statement by the Chairman on the situation in East Timor, it had been presented with a draft resolution on that question without any prior open consultation. He thought that it would be preferable to adopt a more consensual approach and hoped that the Commission was not turning into a war machine against the third world. Moreover, the situation was fairly contradictory, since the Secretary-General was making considerable efforts to deal with that question and the Indonesian Government had made commitments for the whole of the year 1997. However, the

draft resolution had been presented in April, without awaiting the end of that period. The Algerian delegation feared that the adoption of the draft resolution might render the task of the Secretary-General and his personal representative even more difficult and wondered whether it would be possible to withdraw the text and conduct more extensive consultations with a view to formulating a statement by the Chairman that could be adopted by consensus.

65. Mr. AKRAM (Pakistan) endorsed the proposal of the Algerian delegation and requested the authors of the draft resolution to make a final effort to reach an agreement on a statement by the Chairman.

66. Mr. VAN WULFFTEN PALTHE (Netherlands) said that, during the session, as in the case of previous sessions of the Commission, discussions had been held between the delegations of the States members of the European Union and the Indonesian delegation but the Indonesian Ambassador had indicated that it had not been possible to reach an agreement. Hence, the States members of the European Union had felt obliged to present a draft resolution. The European Union remained willing to discuss the possibility of a statement by the Chairman, provided that it went further than the statement by the Chairman of the fifty-second session of the Commission.

67. Mr. HAMIDON ALI (Malaysia) said that only cooperation and dialogue could further the cause of human rights and the draft resolution presented by the European Union would impede the efforts of Indonesia and the Centre for Human Rights. Furthermore, the Malaysian delegation noted that the Indonesian Government had always cooperated with the Commission's mechanisms and, consequently, announced its intention of voting against the draft resolution.

68. Mr. HWANG (Republic of Korea) welcomed the efforts that the Indonesian Government had made to improve the situation of human rights in East Timor. The delegation of the Republic of Korea had hoped that the Commission would be able to reach a consensus concerning a statement by the Chairman because, in the field of human rights, only dialogue was fruitful. Since that had not been possible, it would abstain in the event of a vote.

69. Mrs. BAUTISTA (Philippines) said that, as a matter of principle, the Philippine delegation systematically abstained during the adoption of draft resolutions on the human rights situation in a particular country, since such a step could only lead to a politicization of the Commission's work. However, in view of the considerable efforts made by the Indonesian Government and the good offices offered by the personal representative of the Secretary-General, it would vote against the draft resolution.

70. At the request of the representative of Indonesia, a vote was taken by roll-call on draft resolution E/CN.4/1997/L.96.

71. India, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Angola, Austria, Brazil, Bulgaria, Canada, Cape Verde, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, France, Germany, Ireland, Italy, Mozambique, Netherlands, United Kingdom, United States, Uruguay.

Against: Bangladesh, Bhutan, China, Cuba, Egypt, India, Indonesia, Madagascar, Malaysia, Nepal, Pakistan, Philippines, Sri Lanka, Zimbabwe.

Abstaining: Algeria, Argentina, Belarus, Benin, Chile, Colombia, Ethiopia, Gabon, Guinea, Japan, Mali, Mexico, Nicaragua, Republic of Korea, Russian Federation, South Africa, Uganda, Zaire.

72. Draft resolution E/CN.4/1997/L.96 was adopted by 20 votes to 14, with 18 abstentions.

The meeting rose at 1.05 p.m.

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COMMISSION ON HUMAN RIGHTS

Fifty-third session

SUMMARY RECORD OF THE 67th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 16 April 1997, at 3 p.m.

Chairman Mr. SOMOL (Czech Republic)

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GE.97-12480 (E)

The meeting was called to order at 3.30 p.m.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES, INCLUDING:

(a) QUESTION OF HUMAN RIGHTS IN CYPRUS (agenda item 10) (continued) (E/CN.4/1997/L.81, L.84/Rev.1, L.97 and L.110)

Draft resolution on the situation of human rights in Myanmar (E/CN.4/1997/L.97)

1. Mr. van WULFFTEN PALTHE (Netherlands), introducing the draft resolution on behalf of its sponsors, said that the human rights situation in Myanmar remained a source of great concern. The Special Rapporteur's report (E/CN.4/1997/64) and many other reports listed a terrifying range of human rights violations, and the Government was not willing to engage in a dialogue with the international community with a view to improving the situation.

2. The aim of the draft resolution was to raise those points and to call for talks between the Government and the opposition, headed by Daw Aung San Suu Kyi, that had won the democratic 1990 elections as well as with the leaders of ethnic groups. The draft resolution reflected the encouraging news that the Government of Myanmar had recently expressed its willingness to invite the special envoy of the Secretary-General to pay a visit to the country, and expressed the hope that the Commission's Special Rapporteur would likewise soon be invited. His reports and observations would surely offer practical guidance on ways of improving the human rights situation.

3. The text had been extensively negotiated, and the sponsors believed it could be adopted without a vote.

4. Mr. LEBAKIN (Centre for Human Rights) said that the representative of the United States of America and the observers for Estonia and Malta had become sponsors of the draft resolution.

5. U AYE (Observer for Myanmar) said that although some delegations had made commendable efforts to moderate the tone of the text of the draft resolution and present a balanced picture of events in his country, others were determined to invent a scenario that had no basis in reality, and to mount a propaganda campaign in a futile effort to exert political pressure on Myanmar. The draft resolution subordinated the cause of human rights and the interests of Myanmar to the narrow interests of a single political party and personality.

6. The text alleged that peaceful assembly had been hindered by the Government but nothing could be further from the truth. Any unbiased observer could readily ascertain that "peaceful assemblies" had repeatedly been manipulated to create disorder, in defiance of legal authority, with the intention of inciting innocent bystanders to acts of destruction. Such efforts directed towards hindering the constitutional process would naturally be countered appropriately by the authorities.

7. The draft resolution also called for dialogue with leaders of political parties and ethnic groups. It was precisely for that reason that the National Convention had been convened: it encompassed political leaders, leaders of ethnic groups, workers, peasants and intelligentsia and had the objective of ensuring the emergence of a lasting constitution and a multi-party democratic system in Myanmar.

8. The allegations of human rights abuses were merely ritual carry-overs from a previous resolution to which the Myanmar authorities had responded factually and categorically. Specific accusations had been investigated and it had repeatedly been found that they were without foundation and had been invented for their own purposes by groups hostile to the Government. For example, the draft resolution referred to the demise of a certain Mr. James Leander Nichols but Mr. Nichols who had a history of chronic health problems, had passed away in hospital while undergoing medical treatment. The draft resolution also ignored the Government's efforts to promote and protect the rights of the child and presented a totally untrue picture of the situation in that regard.

9. His Government was exerting its utmost efforts towards national reconsolidation, but such efforts had always been opposed by a small handful of internal dissidents encouraged and influenced by external elements bent on destabilizing the country. It had always maintained that only the collective endeavour of the country's population would promote the objective of national reconsolidation: Myanmar would tolerate no outside influence or pressure in that national undertaking.

10. In conclusion, he said his Government viewed the draft resolution as a blatant attempt to divide the nation: it could hardly be expected to take a serious view of such a mischievous exercise. Myanmar roundly condemned and totally dismissed all the negative elements of the draft resolution as being counter-productive for the protection and promotion of human rights.

11. Mr. COMBA (Centre for Human Rights), outlining the budgetary implications of the draft resolution, said that, to cover the extension of the mandate of the Special Rapporteur, provisions of US$ 82,400 had been made under section 21 of the programme budget for the 1996-1997 biennium. The requirements for the first quarter of 1998 would be included in the proposed programme budget for the 1998-1999 biennium.

12. Draft resolution E/CN.4/1997/L.97 was adopted.

Draft resolution submitted by the Chairman on the situation of human rights in Afghanistan (E/CN.4/1997/L.110)

13. The CHAIRMAN read out a number of changes to the draft resolution. After the fifth preambular paragraph, two new preambular paragraphs were to be inserted, to read:

> "Concerned that armed confrontation persists in certain parts of the territory of Afghanistan,

Aware that peace and security in Afghanistan are conducive to the full restoration of all human rights and fundamental freedoms, the voluntary return of refugees to their homeland in safety and dignity, the clearance of minefields in many parts of the country, and the reconstruction and rehabilitation of Afghanistan,"

The remaining preambular paragraphs would be renumbered accordingly.

14. In the new eighth preambular paragraph, the word "Recalling" would be replaced by "Noting". At the end of the new tenth preambular paragraph, the words "throughout the country" would be deleted. In the second line of paragraph 2, after the words "Afghanistan, which", the words "in some cases" would be deleted. Before the words "the return", in the last line of the same paragraph, the words "to permit" would likewise be deleted.

15. Mr. AKRAM (Pakistan), speaking in explanation of position, said his delegation would join in a consensus on the draft resolution as revised, but believed it was too narrow in focus and did not fully reflect the realities of the situation. Human rights had been violated by successive regimes in Afghanistan. Over the past 17 years, 1 million Afghans had died and over 1.5 million had been maimed or injured. Both the winners and losers of the war had walked away, leaving the Afghan people, and also Pakistan, to cope with the wide-ranging consequences.

16. His Government recognized the State of Afghanistan and did business with whatever regime was in power. It maintained contacts with all Afghan groups as part of a consistent effort to promote a political settlement and hoped that collective efforts would result in genuine national reconciliation.

17. The Taliban were a reality: they currently administered Kabul and most of the country and the channels of communication with them must be kept open. His own Government had done more than any other to seek modifications in their gender-related policies. In their dialogue with Pakistan, the Taliban had stated that, once the situation had returned to normal, education for girls would be restored and conditions created to enable women to work. They had pointed out that, in the parts of Afghanistan they controlled, peace had been restored and basic human rights ensured for the first time in 17 years.

18. Differences of opinion regarding certain aspects of the Taliban's policies must not be allowed to influence decisions affecting the Afghan population, which had suffered for so long. The search for peace must be accompanied by an expansion of international assistance and cooperation: that would be both wise and humane.

19. Everyone agreed that Afghanistan must not emerge as a source of instability in the region. By the same token, it must not be destabilized from outside. A complete arms embargo was therefore an essential instrument in promoting peace in Afghanistan.

20. Mr. COMBA (Centre for Human Rights), outlining the budgetary implications of the draft resolution, said that provisions of US$ 81,400 had been made under section 21 of the programme budget for the 1996-1997 biennium

to finance the extension of the Special Rapporteur's mandate. The requirements for the first quarter of 1998 would be included in the proposed programme budget for the 1998-1999 biennium.

21. Draft resolution E/CN.4/1997/L.110, as orally revised, was adopted without a vote.

Draft decision submitted by the Chairman on the question of human rights in Cyprus

22. The CHAIRMAN read out the following draft decision: "At its 67th meeting, on 16 April 1997, the Commission decided, without a vote, to retain on its agenda item 10 (a), entitled Question of human rights in Cyprus, and to give it due priority at its fifty-fourth session, it being understood that action required by previous resolutions of the Commission on the subject would continue to remain operative, including the request to the Secretary-General to provide a report to the Commission regarding their implementation."

23. The draft decision was adopted without a vote.

Draft resolution on the situation of human rights in Rwanda (E/CN.4/1997/L.81)

24. Mr. ZAHRAN (Egypt), introducing the draft resolution on behalf of its sponsors, said it strongly condemned the crime of genocide, crimes against humanity and all other violations of human rights perpetrated in Rwanda and expressed deep concern at the continued suffering experienced by the survivors of the genocide and the massacres.

25. In view of the extensive consultations that had been held with all concerned delegations, the sponsors hoped that the draft resolution would be adopted without a vote.

26. Mrs. KLEIN (Secretary of the Commission) said that the representatives of Argentina, Austria, Canada, Denmark, France, Germany, United Kingdom and United States of America, and the observers for Australia, Finland, Israel, Liechtenstein, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Sweden and Switzerland had become sponsors of the draft resolution.

27. Mr. BUCHAN (Canada) said that his Government had long taken a deep interest in the human rights situation in Rwanda and had tried to match that concern with constructive actions. Rwanda had experienced a remarkable rebirth since the genocide of 1994, though much work remained to be done. The draft resolution addressed issues that were both important and complex and, it was to be hoped, would give encouragement to those striving to improve the human rights situation under very difficult circumstances. He wished particularly to express appreciation to the delegation of Rwanda for its close cooperation on the draft.

28. Mr. van WULFFTEN PALTHE (Netherlands), speaking on behalf of the European Union, said that the Union was satisfied with the successful outcome of the negotiations on the draft resolution. The Rwandan delegation had

demonstrated great willingness to discuss a difficult topic, and it was to be hoped that that frankness would serve as an example for other discussions on similar issues.

29. Mr. MARUME MULUME (Zaire) said that his country, too, continued to suffer from the results of the genocide in Rwanda. The precarious resources, both natural and material, of eastern Zaire had been gravely damaged by the influx of one and a half million Rwandan refugees. The deteriorating human rights situation in Rwanda was therefore particularly close to the hearts of his delegation.

30. The contradictions to be found in the draft resolution were of some concern, since they smacked of a selective, uncaring approach. Paragraph 13 singled out the United Nations personnel, paragraph 12 referred vaguely to "security forces" and even paragraph 11, though more precise, failed to name any of those responsible for the violations of human rights alleged. Meanwhile, the real threat to whole communities was passed over in silence; for example, the thousands of Rwandan refugees still wandering about Zaire, and the suffering of the survivors of the genocide, seemed to be of no concern to the authors of the draft resolution and were not mentioned at all. The text of paragraph 19 was not strong enough; the Special Rapporteur should have been unequivocally thanked. Also, it was hard to reconcile the mandates of the Special Rapporteur and the proposed special representative.

31. The draft resolution mentioned specific abuses, but missed the wider picture. Reconciliation was the only way to prevent a recurrence of the situation and for that a more hard-hitting denunciation of human rights violations was required. His delegation did not wish to call the emerging consensus into question but, in the event of a vote, it would have voted against the draft resolution, which did not reflect the interests of the disparate peoples of Rwanda.

32. Mr. HYNES (Canada) said that his delegation would have to check that the French translation of the text was correct.

33. Mr. GASANA (Observer for Rwanda) said that human rights should never be used as a threat or as some form of policing. The only way forward was an attitude of goodwill on the part of all concerned. The people of Rwanda needed support, and not only materially; in that context he expressed gratitude to Canada for producing the magic formula by which consensus had been achieved. He fully understood the concerns of the Zairian representative. He wished Zaire well and hoped that peace would be attained in that country.

34. The CHAIRMAN said that the draft resolution had no financial implications.

35. Draft resolution E/CN.4/1997/L.81 was adopted.

Draft resolution on the situation of human rights in Equatorial Guinea and assistance in the field of human rights (E/CN.4/1997/L.84/Rev.1)

36. Mr. ZAHRAN (Egypt) drew the Commission's attention to some changes in the text of the draft resolution. In the first line of paragraph 5, the words

"continue the" and the word "of" would be deleted; paragraph 8, subparagraph (a) would begin "The periodic and regular publication ..."; in subparagraph (c) of the same paragraph, the word order in the third and fourth lines would be changed to read "... and the enforcement by the security forces of judicial decisions ..."; in paragraph 10 ".../Centre for Human Rights" should be inserted after "High Commissioner for Human Rights"; and in paragraph 11 "project" should read "projects".

37. The draft resolution focused on the fruitful cooperation between the Government of Equatorial Guinea and the Special Rapporteur and requested renewal of the Special Rapporteur's mandate for a further year. He hoped that the draft resolution, which was the result of negotiations between the sponsors and the delegation of Equatorial Guinea, could be adopted without a vote.

38. Mrs. KLEIN (Secretary of the Commission) said that the representative of the United States of America had become a sponsor of the draft resolution.

39. Mr. MILAM TANG (Observer for Equatorial Guinea) said that, since the changes that had taken place in his country in 1979, his Government had committed itself to a programme of action to restore human rights, which had not previously existed in the country. The needs of its people had become the paramount consideration in framing all legislation, beginning with the Constitution.

40. His Government's dialogue with the Commission, and the facilities that it had extended to the Special Rapporteur, showed its goodwill. Its practice, it was true, had not always lived up to its aspirations; material considerations and cultural attitudes sometimes militated against the due observance of human rights and much remained to be done. It had, however, come to be generally recognized that human rights should not be restricted to a small sector of the population but should extend to all, paving the way to peaceful coexistence. It was most gratifying that the Special Rapporteur and the Commission recognized the progress that had been made and encouraged his Government to continue along the same lines, within its limited resources.

41. There were one or two omissions from the Special Rapporteur's report, doubtlessly as a result of a lack of time and funding. For example, he had not mentioned important measures that had been adopted under the Criminal Code to end the apparent impunity of some parties in relation to human rights violations. The Commission would, he hoped, continue the programme of technical cooperation to enable his country, with better resources, to improve its observance of human rights.

42. Mr. COMBA (Centre for Human Rights) said that the draft resolution provided for the extension of the mandate of the Special Rapporteur for a year. Provisions of US$ 54,000 had been made in the programme budget for the 1996-1997 biennium. The requirements for the first quarter of 1998 would be included in the proposed programme budget for the 1998-1999 biennium.

43. Draft resolution E/CN.4/1997/L.84/Rev.1, as orally revised, was adopted.

FOLLOW-UP TO THE WORLD CONFERENCE ON HUMAN RIGHTS (agenda item 22) (continued) (E/CN.4/1997/L.100 and 107)

Draft resolution on the report of the United Nations High Commissioner for Human Rights (E/CN.4/1997/L.100)

44. Mr. RODAS (Ecuador), introducing the draft resolution on behalf of its sponsors, drew the Commission's attention to some changes in the text: in paragraph 1, the symbol E/CN.4/1997/98/Add.1 should be inserted before the semicolon; in paragraph 3, three words should be deleted, so that the paragraph would begin "Recognizes the efforts of the High Commissioner in enhancing and endowing ..."; while in paragraph 4, the words "Office of the" in the first and second lines should be deleted and the words "these entities" in the third and fourth lines should be replaced by "they". He hoped that the draft resolution could be adopted by consensus.

45. Mrs. KLEIN (Secretary of the Commission) said that the observers for Malta, Paraguay and Venezuela had become sponsors of the draft resolution.

46. Mr. de ICAZA (Mexico) said that, in the list of sponsors, Mexico should appear as a member of the Commission and not as an observer.

47. Draft resolution E/CN.4/1997/L.100, as orally revised, was adopted.

Draft resolution on the comprehensive implementation of and follow-up to the Vienna Declaration and Programme of Action (E/CN.4/1997/L.107)

48. Mr. THEUERMANN (Austria), introducing the draft resolution on behalf of its sponsors, said it built upon previous resolutions on the issue of both the Commission and the General Assembly, which had all been adopted without a vote. It focused on preparations for the five-year review, in 1998, of the implementation of the Vienna Declaration and Programme of Action. Since the review must be seen within the broader context of the coordinated follow-up to other recent United Nations conferences, the Economic and Social Council had accepted the Commission's recommendation that it should devote the coordination segment of its 1998 substantive session to the question of coordinated follow-up to the Vienna Declaration and Programme of Action.

49. In the second line of paragraph 6, the words "and the Commission on Human Rights" should be deleted, since the Commission could not address a request to itself. With that technical correction, he hoped that the draft resolution would be adopted by consensus.

50. Mrs. KLEIN (Secretary of the Commission) said that the representatives of Bangladesh, Belarus, Bulgaria, El Salvador, Madagascar and the United States of America and the observers for Australia, Greece, Latvia, Liechtenstein, New Zealand, Paraguay, Poland, Spain, Thailand and Zambia had become sponsors of the draft resolution.

51. Mr. ZAHRAN (Egypt) said that his delegation, too, wished to be a sponsor of the draft resolution.

52. Draft resolution E/CN.4/1997/L.107, as orally revised, was adopted.

DRAFTING OF A DECLARATION ON THE RIGHT AND RESPONSIBILITY OF INDIVIDUALS, GROUPS AND ORGANS OF SOCIETY TO PROMOTE AND PROTECT UNIVERSALLY RECOGNIZED HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS (agenda item 20) (continued) (E/CN.4/1997/L.101)

Draft resolution on the question of a draft declaration on the right and responsibility of individuals, groups and organs of society to promote and protect universally recognized human rights and fundamental freedoms (E/CN.4/1997/L.101)

53. Mr. WILLE (Observer for Norway), introducing the draft resolution on behalf of its sponsors, said that it reflected the Commission's expectation that the draft declaration would be completed in time for adoption at its fifty-fourth session. It thus recommended that the Economic and Social Council should authorize the working group engaged in drafting the declaration to meet for eight working days prior to that session of the Commission.

54. The words "at its fifty-fourth session" at the end of paragraph 2 should be deleted. He hoped that the draft resolution, as revised, would be adopted without a vote.

55. Mrs. KLEIN (Secretary of the Commission) said that the representatives of Colombia and the United States of America and the observers for Estonia, Luxembourg, New Zealand and Slovakia had become sponsors of the draft resolution.

56. Mr. ALFONSO MARTÍNEZ (Cuba) said that his delegation fully supported the draft resolution and hoped that the working group's next session would be held in the two weeks immediately preceding the Commission's fifty-fourth session.

57. Mr. van WULFFTEN PALTHE (Netherlands) said that the dates of the working group's session would be settled by the Commission's officers. The week immediately preceding the Commission's session would be a very busy one and would not be suitable for such an important meeting.

58. Mr. ALFONSO MARTÍNEZ (Cuba) said that the Commission should continue its custom of scheduling the working group's session shortly before its own. While it was unnecessary to take a decision immediately, he hoped that the Commission's officers would take his suggestion into account.

59. Mr. HYNES (Canada) said that the officers had his delegation's full confidence and that he supported the position of the Netherlands representative.

60. Mr. COMBA (Centre for Human Rights) said that the substantive servicing of the working group's session would be provided by the Centre for Human Rights and that the costs thereof would be absorbed within existing resources for the 1996-1997 programme budget. The session would be serviced from within the provision approved under section 26C of the 1996-1997 programme budget for conference services in Geneva.

61. Draft resolution E/CN.4/1997/L.101, as orally revised, was adopted.

HUMAN RIGHTS AND SCIENTIFIC AND TECHNOLOGICAL DEVELOPMENTS (agenda item 12) (continued) (E/CN.4/1997/L.103 and L.106)

Draft decision on human rights and the follow-up to the guidelines for the regulation of computerized personal data files (E/CN.4/1997/L.103)

62. Mr. BERNARD (France) said that the draft decision was a purely procedural one whereby the Commission would decide to keep the matter under review.

63. The draft decision was adopted.

Draft resolution on human rights and bioethics (E/CN.4/1997/L.106)

64. Mr. BERNARD (France), introducing the draft resolution on behalf of its sponsors, said that the spectacular development of life sciences and related technologies in recent years raised ethical issues that concerned the most fundamental human rights. Although the sensitivity and complexity of those problems would continue to increase, such progress must be neither feared nor avoided but the human being must remain at the centre of the debate on scientific and medical advances. The draft resolution, which was formulated in modest terms, looked forward optimistically to the twenty-first century.

65. There were two changes to be made to the text. Paragraph 4 was to be removed from the operative part of the draft resolution and inserted after the fourteenth preambular paragraph and would then begin, "Taking note also of the draft international declaration ...". In paragraph 5 (which would thus become para. 4), the phrase after "safeguard the rights of the individual" should be revised to read, "his dignity and his identity and unity".

66. Mrs. KLEIN (Secretary of the Commission) said that the representative of India and the observer for Greece had become sponsors of the draft resolution.

67. Mr. BERNARD (France) said that France had been inadvertently omitted from the list of sponsors.

68. Draft resolution E/CN.4/1997/L.106, as orally revised, was adopted.

ORGANIZATION OF THE WORK OF THE SESSION (agenda item 3) (continued) (E/CN.4/1997/L.15 and L.33)

Draft decision on conscientious objection to military service (E/CN.4/1997/L.15)

69. Mr. van WULFFTEN PALTHE (Netherlands) said that the draft decision was intended to streamline the Commission's work by biennializing its consideration of the question of conscientious objection to military service.

70. The draft decision was adopted.

Draft decision on tolerance and pluralism as indivisible elements in the promotion and protection of human rights (E/CN.4/1997/L.33)

71. Mr. H.K. SINGH (India) said that, although the debates at the Commission's current session had highlighted the importance of tolerance for

the full enjoyment of human rights, the need to reform its methods of work made it necessary to biennialize the consideration of the issue. That would also allow more time for the implementation of Commission resolution 1996/19, inter alia through the activities of member States and the Centre for Human Rights in the context of the fiftieth anniversary of the Universal Declaration of Human Rights.

72. Mrs. KLEIN (Secretary of the Commission) said that the representative of Madagascar and the observer for Sweden had become sponsors of the draft decision.

73. The draft decision was adopted.

Organization of the work of the fifty-fourth session of the Commission

74. The CHAIRMAN suggested that the Commission might wish to adopt the following draft decision:

> "At its 67th meeting, on 16 April 1997, the Commission decided, without a vote, in the light of the positive experience gained by rescheduling the dates of the fifty-second and fifty-third sessions, to recommend to the Economic and Social Council, pursuant to the Council's decision 1994/297 of 29 July 1994, and bearing in mind Council decision 1995/296 of 25 July 1995, that the dates for the Commission's annual regular sessions be rescheduled to take place in March/April each year, instead of earlier in the year, and that, accordingly, the fifty-fourth session be scheduled to take place from 16 March to 24 April 1998."

75. Mr. de ICAZA (Mexico) said that moving the opening date of the session from the second to the third week in March meant the end of the session would overlap with the Conference on Disarmament, when many representatives had to be in New York.

76. Mrs. KLEIN (Secretary of the Commission) said that the Commission had expressed the wish to have Easter roughly in the middle of the session; Easter 1998 would fall in the fourth week of the proposed session. There would be no difficulty, however, changing the dates if the Commission so desired.

77. Mr. de ICAZA (Mexico) said that delegations could not plan their schedules for the year's meetings around a movable feast.

78. Mr. HYNES (Canada), Ms. REGAZZOLI (Argentina) and Mr. STEEL (United Kingdom) said they were happy with the proposed dates, as the session would begin after the session of the Commission on the Status of Women, which dealt with many of the same issues as the Commission and was attended by many of the same people.

79. Mr. ROGOV (Russian Federation), Mrs. KUPCHYNA (Belarus), Mr. GETAHUN (Ethiopia), Mrs. MAGANARA (Observer for Greece) and Mr. KOLAROV (Bulgaria) expressed the wish that the dates of the Orthodox Easter would be taken into account in scheduling the session.

80. The CHAIRMAN said that the officers of the Commission would consider the points raised.

81. He suggested that the Commission might wish to adopt the following draft decision on additional meetings:

> "At its 67th meeting, on 16 April 1997, the Commission, taking into account its heavy schedule of work, as well as the need to give adequate consideration to all the items on the agenda, and recalling that in previous years the Economic and Social Council had approved the Commission's request for additional meetings for its thirty-seventh to fifty-third sessions, decided, without a vote:
>
> (a) To recommend to the Economic and Social Council that it authorize, if possible within existing financial resources, 40 fully serviced additional meetings, including summary records, in accordance with rules 29 and 31 of the rules of procedure of the functional commissions of the Economic and Social Council, for the Commission's fifty-fourth session;
>
> (b) To request the Chairman of the Commission at its fifty-fourth session to make every effort to organize the work of the session within the times normally allotted, so that the additional meetings that the Economic and Social Council might authorize would be utilized only if such meetings proved to be absolutely necessary."

82. Mr. LOFTIS (United States of America) said that there should be a comma after the words "if possible" in paragraph (a).

83. The draft decision, as orally amended, was adopted.

84. The CHAIRMAN suggested that the Commission might wish to adopt the following draft decision on reporting obligations:

> "At its 67th meeting, on 16 April 1997, the Commission decided, without a vote, that, unless otherwise indicated in the resolutions adopted at the fifty-third session, all continuing thematic or country-oriented mandates established by the Commission and entrusted to special rapporteurs, special representatives, independent experts and working groups are expected to report to the fifty-fourth session, even if the relevant resolutions do not make explicit reference to that reporting obligation."

85. The draft decision was adopted.

QUESTION OF THE REALIZATION OF THE RIGHT TO DEVELOPMENT (agenda item 6) (continued) (E/CN.4/1997/L.25/Rev.1)

Draft resolution on the right to development (E/CN.4/1997/L.25/Rev.1)

86. Mr. CASTRO GUERRERO (Colombia), introducing the draft resolution on behalf of its sponsors, which had been joined by the representatives of Brazil, Dominican Republic, El Salvador and Uruguay and the observers for

Costa Rica, Greece, Portugal and Spain, said that the penultimate preambular paragraph, beginning "Mindful of the close relationship between disarmament and development ...", had been removed in the interests of reaching consensus. The preambular paragraph in question was identical with the twelfth preambular paragraph of the Declaration on the Right to Development, and the Movement of Non-Aligned Countries would be reaffirming its validity on other occasions.

87. In the English text, a comma should be inserted after "at all levels" in paragraph 3, and the subheading "Working Group of Intergovernmental Experts" that preceded paragraph 13 should be removed.

88. The draft resolution simply reaffirmed the importance of the right to development in the context of human rights and acknowledged the work done by the Working Group of Intergovernmental Experts at its first session and renewed its mandate.

89. Mr. ZAHRAN (Egypt) said that the Declaration on the Right to Development was a bridge between the Universal Declaration of Human Rights and the Vienna Declaration and Programme of Action, offering a comprehensive vision for the full integration of economic, social and cultural rights with civil and political rights. The World Conference on Human Rights had reaffirmed that the right to development was a universal and inalienable right.

90. There was general agreement in the Commission on the link between disarmament and development, but one delegation had insisted on the removal of the penultimate preambular paragraph. In that connection, he drew attention to the Declaration adopted by the United Nations Conference on Trade and Development at its eighth session, and said that the resources released through disarmament measures should be devoted to financing economic and social development so that all people, especially those in developing countries, would benefit. His delegation had agreed to the deletion of the paragraph to facilitate the adoption of the draft resolution, but was firmly committed to the principle contained therein.

91. Mrs. KLEIN (Secretary of the Commission) said that the representatives of Belarus, Bulgaria, Denmark, France, Germany, Ireland, Italy and the Russian Federation and the observers for Australia, Belgium, Slovenia and the former Yugoslav Republic of Macedonia had become sponsors of the draft resolution.

92. Mr. DENNIS (United States of America) said that, while his delegation would join the consensus, it did not accept that the right to development was somehow bestowed on individuals by Governments. The individual was at the centre of development, and the Government's job was to create the conditions under which individual initiatives could flourish.

93. Draft resolution E/CN.4/1997/L.25/Rev.1, as orally revised, was adopted without a vote.

The meeting rose at 6 p.m.